



# भारत का राजपत्र The Gazette of India

प्रधिकार से प्रकाशित

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No. 37]

NEW DELHI, SATURDAY, SEPTEMBER 13, 1969/BHADRA 22, 1891

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

नोटिस

NOTICE

नीचे निम्न भारत के असाधारण राजपत्र 18 अगस्त 1969 तक प्रकाशित किये गये :-

The undermentioned Gazettes of India Extraordinary were published up to the 18th August, 1969 :-

Issue No.	No. and Date	Issued by	Subject
276 S.O. 3215, dated 9th August, 1969.]		Ministry of Industrial Development, Internal Trade and Company Affairs.	Granting recognition to the Grain, Rice and Oilseeds Merchants' Association, Bombay for a further period of one year from the 10th August, 1969 upto the 9th August, 1970 in respect of forward contracts in ground-nut kernels.
एस० ओ० दिनांक 1969	3216 9 अगस्त, 1969	औद्योगिक आन्तरिक तथा समवाय कार्य मंत्रालय	मूंगफली के दाने की अग्रिम संवि- दाओं की 10 अगस्त, 1969 से लेकर 9 अगस्त, 1970 तक, अ न, चावल और तिलहन व्यापारी संगम बम्बई द्वारा एक वर्ष की अतिरिक्त कालावधि के लिये माग्यता प्रदान करना।

Issue No.	No. and Date	Issued by	Subject
277	S.O. 3294, dated 11th August, 1969.	Election Commission of India.	By election to the Council of States by the elected Members of the Uttar Pradesh Legislative Assembly to fill the vacancy caused by the death of Shri Jogesh Chandra Chatterji.
एस० ओ०	3295, दिनांक 11 अगस्त, 1969	भारत निर्वाचन आयोग	श्री जोगेश चन्द्र चटर्जी की मृत्यु के कारण हूद रिक्ति को भरने के लिये उत्तर प्रदेश विधान सभा के निर्वाचित सदस्यों द्वारा राज्य सभा के लिये उप-निर्वाचन ।
278	S.O. 3296, dated 11th August, 1969.	Ministry of Law.	Bye-election to the Council of States by the elected members of the Legislative Assembly of Uttar Pradesh.
एस० ओ०	3297, दिनांक 11 अगस्त, 1969	विधि मंत्रालय	उत्तर प्रदेश विधान सभा के निर्वाचित सदस्यों द्वारा राज्य सभा का उप-चुनाव ।
279	S.O. 3298, dated 13th August, 1969.	Election Commission of India.	Amendment in notification No. 479/2/69(1) (S.O. 2841), dated 14th July, 1969.
एस० ओ०	3299, दिनांक 13 अगस्त, 1969	भारत निर्वाचन आयोग	अधिसूचना सं० 479/2/69 (1) (का० आ० 2845), तारीख 14 जुलाई, 1969 में संशोधन ।
280	S.O. 3300, dated 14th August, 1969.	Ministry of Law.	Bye-election to the Council of States by the elected Members of the Legislative Assembly of Uttar Pradesh.
एस० ओ०	3301, दिनांक 14 अगस्त, 1969	विधि मंत्रालय	उत्तर प्रदेश विधानसभा के निर्वाचित सदस्यों द्वारा राज्य सभा का उप-चुनाव ।
281	S.O. 3302, dated 14th August, 1969.	Ministry of Law.	The Presidential and Vice-Presidential Elections (Amendment) Rules, 1969.
एस० ओ०	3303, दिनांक 14 अगस्त, 1969	विधि मंत्रालय	राष्ट्रपतीय और उप-राष्ट्रपतीय निर्वाचन (संशोधन) नियम, 1969 ।
282	S.O. 3304, dated 14th August, 1969.	Election Commission of India.	Amendments in notification No. 56/69-II (S.O. 89), dated 4th January, 1969.

Issue No.	No. and Date	Issued by	Subject
283	S.O. 3305, dated 14th August, 1969.	Rajya Sabha Secretariat.	Final list of candidates for election to the Office of the Vice-President of India.
	एस० आ० 3306, दिनांक 14 अगस्त, 1969	राज्य सभा सचिवालय	भारत के उपराष्ट्रपति के पद के निर्वाचन के लिए उम्मीदवारों की अन्तिम सूचना।
284	S.O. 3307, dated 16th August, 1969.	Ministry of Law.	The Registration of Elector (Second Amendment) Rules, 1969.
	का० आ० 3308, दिनांक 16 अगस्त, 1969	विधि मंत्रालय	निर्वाचक रजिस्ट्रीकरण (द्वितीय संशोधन) नियम, 1969।
285	S.O. 3309, dated 18th August, 1969.	Ministry of Labour, Employment and Rehabilitation.	Constituting an Industrial Tribunal and referring the dispute as stated in the schedule therein for adjudication.
	S.O. 3310, dated 18th August, 1969.	Do.	Prohibiting the strike in the port of Visakhapatnam in connection with the dispute referred above (S.O. 3309).
285	S.O. 3311 dated 18th August, 1969.	Ministry of Information and Broadcasting.	Approval of the films as specified in the schedule therein.
	एस० आ० 3312, दिनांक 18 अगस्त, 1969	सूचना तथा प्रसारण मंत्रालय	अनुसूची में दो गई फिल्मों को स्वीकृत करना।

ऊपर लिखे प्रसाधारण राजपत्रों का प्रतियां प्रकाशन प्रबन्धक, सिविल लाइन्स, दिल्ली के एक मासपत्र अजने पर भेज दी जाएंगी। मासपत्र प्रबन्धक के पास इन राजपत्रों के जारी होने की तारीख 10 दिन के भीतर पत्र च जाने चाहिए।

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

## भाग II—खण्ड 3—उपखण्ड (ii)

### PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़कर) केन्द्रीय प्राधिकरणों द्वारा जारी किये गये विधिक आदेश और अधिसूचनाएं

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

### ELECTION COMMISSION OF INDIA

New Delhi, the 29th August 1969

S.O. 3629.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, pronounced on

14th July, 1969 by the High Court of Judicature at Patna in Election Petition No. 1 of 1968.

### ELECTION PETITION NO. 1 OF 1968

In the matter of an application under section 80 of the Representation of the People Act, 1951.

Jagat Kishore Prasad Narain Singh—Petitioner

*Versus*

Shri Rajendra Kumar Poddar and others—Respondents

*For the petitioner*—Messrs Balbhadra Prasad Singh, Umesh Chandra Prasad Sinha, Nagendra Prasad Singh, Umesh Prasad Singh and Shyam Nandan Prasad Sharma.

*For the respondent No. 1*—Messrs Kanhaiya Prasad Verma, Kamla Kant Prasad, Bishwambhar Prasad Sinha, Saptami Jha, N. N. Roy, A. B. S. Sinha, Anugrah Pd. Singh and Devendra Pd. Sharma.

PRESENT:

The Hon'ble Mr. Justice G. N. Prasad.

G. N. PRASAD J.—This is an election petition under Part VI of the Representation of the People Act, 1951, which will be referred to as "the Act of 1951", to distinguish it from the Representation of the People Act, 1950, which will be referred to in this judgment as "the Act of 1950".

2. A biennial election to the Rajya Sabha (the Council of States) was held in March, 1968, for the purpose of filling the seats of seven members of the Rajya Sabha whose term was to expire in the month of April, 1968. The election was held in the Bihar Legislative Assembly Constituency in accordance with the following Schedule:

(i) Last date for filing nominations . . . . .	18-3-1968
) The date for scrutiny of nomination papers . . . . .	19-3-1968
(iii) Last date for withdrawal of candidatures . . . . .	21-3-1968
(iv) Date of poll . . . . .	28-3-1968

28th March 1968 was also the date on which the counting of ballot papers and the declaration of the results were made.

3. In all, 23 candidates had filed their nominations for the election, including the petitioner, who was a sitting member of the Rajya Sabha and due to retire from this office. The nominations of all of them were declared to be valid, but three of them withdrew their candidatures, and thus 20 candidates went to the poll. At the stage of the counting of the ballot papers, it transpired that 8 of the candidates had secured nil votes. They are Sarbshri (1) Gopal Shastri, (2) Chandrika Singh, (3) Mani Kant Thakar, (4) Rajeshwari Prasad, (5) Rameshwar Sahu, (6) Shrimati Sakuntala Devi, (7) Shri Bhagwan Singh, and (8) Hardeo Narain Singh, who are parties to this election petition as respondents Nos. 9, 11, 12, 14, 15, 17, 18 and 19 respectively. The total number of valid votes was found to be 313, and the first preference votes secured by the remaining 12 candidates were found to be as follows:

1 Shri Jagat Kishore Prasad Narain Singh . . . . .	21
(the Petitioner)	
2 Shri Rajendra Kumar Poddar (Respondent No. 1) . . . . .	39
3 Shri Balkrishna Gupta (Respondent No. 2) . . . . .	40
4 Shri Rudra Narain Jha (Respondent No. 3) . . . . .	37
5 Shri Mahabir Das (respondent No. 4) . . . . .	35
6 Shri Jagdambi Prasad Yadav (respondent No. 5) . . . . .	27
7 Shri Suraj Prasad (respondent No. 6) . . . . .	36
8 Shri Anant Prasad Sharma (respondent No. 7) . . . . .	35
9 Shri Dharmachand Jain (respondent No. 8) . . . . .	8
10 Shri Chandrashekharshwar Prasad Narain Singh (respondent No. 10) . . . . .	1
11 Shri Mohammad Tahir (respondent No. 13) . . . . .	33
12 Shri Vishwanath Singh (respondent No. 16) . . . . .	1

The quota sufficient to secure the return of a candidate at the election, as envisaged in rule 76 of the Conduct of Election Rules, 1961, was 3916 and, as such, there were fresh countings of the ballot papers according to the next available preferences recorded thereon. Ultimately, as a result of the final counting, the following candidates were found to have secured the largest number of votes as follows:

1	Shri Rajendra Kumar Poddar (respondent No. 1)	3913
2	Shri Balkrishna Gupta (respondent No. 2)	3913
3	Shri Rudra Narain Jha (respondent No. 3)	3913
4	Shri Mahabir Das (respondent No. 4)	6900
5	Shri Jagdambi Prasad Yadav (respondent No. 5)	3904
6	Shri Suraj Prasad (respondent No. 6)	3800
7	Shri Anant Prasad Sharma (respondent No. 7)	3800

Accordingly, these seven respondents were declared to have been duly elected. The petitioner challenges the validity of the election of respondent No. 1 only.

4. The main ground of attack which the petitioner has put forward to the election of respondent No. 1 is twofold; (i) that the nomination of respondent No. 1 was improperly accepted, inasmuch as he was not qualified to be enrolled as an elector in the electoral roll of West Patna Assembly constituency for the time being in force, on the ground that he was then not ordinarily resident in the said constituency, but was, on the other hand, ordinarily resident in Alipur Constituency of the West Bengal Legislative Assembly, and (ii) that he was guilty of corrupt practice within the meaning of sub-section (1) of section 123 of the Act of 1951, inasmuch as he had not only made offers but also payments of money to various electors as motive or reward for voting in his favour.

5. The relevant allegations of the petitioner on the main ground as set out at length in paragraphs 17 to 32 of the election petition. The case of the petitioner is that respondent No. 1 belongs to and has his home in Calcutta within the territory of West Bengal. His name is entered in the electoral roll of 136, Alipore Assembly Constituency of the West Bengal Legislative Assembly for the year 1966. But he made an application for inclusion of his name in the list of electors of the Patna West Assembly Constituency under a false pretence of being a resident of Patna and got his claim supported by one Sri Devendra Prasad Sinha, an elector of the said Constituency. He also persuaded Sri Balwant Nath Singh, the then State Minister Incharge of Mines Department, to recommend inclusion of his name in the electoral roll by contacting Shri Awadhesh Kumar, Assistant Electoral Registration Officer, and the latter mechanically ordered the inclusion of the name of respondent No. 1 in the electoral roll on the 18th March, 1968. It has further been alleged that respondent No. 1 occasionally visits Patna in connection with his business affairs and stays in hotels, so that he cannot be treated as a resident of Patna West Assembly Constituency. Besides, respondent No. 1 had not attained the age of thirty years so as to be qualified to be chosen to fill a seat in the Council of States. This part of the petitioner's case is summed up in paragraph 23 of the election petition which reads:

"That the petitioner is advised and submits that the inclusion of the said respondent's name in the electoral roll being based on wilful and fraudulent representation is void, illegal and honest in the eye of law and that the said respondent was not qualified to be chosen to fill a seat in the Council of States by reason of the deficiency of his age and absence of the qualification of his being an elector for a Parliamentary constituency in the State of Bihar, as prescribed by the law made by Parliament.

6. The further case of the petitioner is that respondent No. 1 is possessed of considerable wealth and he and respondent No. 8 (Shri Dharmuchand Jain) have flourishing business of their own. At the impugned election, respondent No. 1 "by the magic of his purse and his capacity to harness, in furtherance of his prospects, material resources in alloys and currencies, ..... successfully tampered with

the free exercise of their electoral right by several members of the Bihar Legislative Assembly and lured them into voting in his favour and giving him the first preference votes" (paragraph 24). In paragraph 24, it has further been alleged:

"The said respondent committed corrupt practices at the said election within the meaning of the said 1951 Act. The said respondent and his election agent, Shri Brajeshwar Mullick, and his agent, Shri Balwant Nath Singh, M.L.A., with the consent of the said respondent and his election agent, the said Shri Brajeshwar Mullick, offered bribe, among others, to the voters named in the particulars hereto annexed, in compliance with the requirements of clause (b) of sub-section (1) of section 83 of the said 1951 Act, and marked 'B', with the object of inducing those voters to refrain from voting for the petitioner at the said election and for voting for the said respondent. As it has transpired to the petitioner, many of the voters, who would, in the ordinary course, have voted for the petitioner, did actually refrain from voting in his favour and voted for the respondent No. 1 and those particularly named in Annexure 'B' hereof voted for the respondent No. 1 by giving their votes of first preference to him on actual receipt of gift and gratification offered to them as aforesaid for voting at the said election in favour of the said respondent."

I shall refer to the particulars mentioned in Annexure "B" hereafter at the appropriate stage. Paragraph 25 of the election petition is in the following terms:

"That respondent No. 1 and his election agent and his workers, with the consent and connivance of the said respondent and his election agent, offered and promised to offer money to several voters, including those of the petitioner, for the purpose of obtaining their votes, the necessary particulars whereof are given in Annexure 'C' hereto annexed."

I shall refer to the particulars given in Annexure "C" also hereafter at the appropriate stage. The petitioner's case has been succinctly put in paragraph 27 of the election petition which reads:

"That, in the premises, the petitioner submits that the result of the election, in so far as it concerns respondent No. 1, has been materially affected by the improper acceptance of his nomination, as also by corrupt practices committed in the interest of the said respondent by himself and by his agents with his connivance and concurrence, and, in any event, by non-compliance and breach of the provisions of the Constitution, read with the provisions of the Representation of the People Act, 1950, and as much, the election of the respondent No. 1 is liable to be declared void."

Allegations of some more corrupt practice of bribery to voters have been made in paragraph 28 read with Annexure "B" of the election petition. To this also reference will be made hereafter at the appropriate stage.

7. The petitioner has also made out a case that by reason of being in public life for quite a long period, as also an active participant in politics, he had a bright chance of success, but respondent No. 1, on account of his corrupt practices, "was able to purloin considerable support available to the petitioner and the votes which the petitioner would otherwise have received were cast in favour of the respondent No. 1 giving him a majority of votes". Substantially, upon these allegations the petitioner has sought two reliefs; (1) that the election of respondent No. 1 be declared to be void; and, (ii) that the petitioner be declared to have been duly elected as a member of the Council of States.

8. The notice of the election petition has been served upon all the nineteen respondents, but only respondent No. 1 has filed his written statement and contested the petition. The written statement starts by saying that the election petition is not maintainable as it is not in accordance with the provisions of sections 80, 81 and 117 and that it is fit to be dismissed under section 86 for non-compliance of the provisions of sections 81, 82 and 117 of the Act of 1951. In paragraph 3 of the written statement, it has been alleged that the election petition was not presented according to law since the petitioner was not present in Court on the 10th May, 1968, when the same was filed and presented by his lawyer. The case put forward in paragraph 4 of the written statement is that the copies of the election petition were not attested to be true copies as required under section 81(3) of the Act of 1951, and as such it is fit to be summarily dismissed. It has further been alleged that the election petition, as originally filed, contained several defects



which were removed after the expiry of the period of limitation, and as such the election petition is fit to be dismissed. In paragraph 7, the case set up is that the election in question was a composite election and the petitioner cannot be allowed to challenge the election of only one candidate.

9. On the merits of the case, respondent No. 1 asserts that he was entitled to be enrolled as a voter in Patna West Assembly Constituency since he lives both at Calcutta and at Patna in connection with his business and is more attached to Bihar, living mostly at Patna since some time, to look after his business. His name was, no doubt, entered in the electoral roll of A'ipur Assembly Constituency, but along with his application for enrolment as a voter of Patna West Assembly Constituency, respondent No. 1 has requested the authority to get his name deleted from the electoral roll of Alipur Assembly Constituency. The application of respondent No. 1 and a notice inviting objections thereto were duly published in accordance with law, and no objection was raised against his enrolment in Patna West Assembly Constituency, by or on behalf of the petitioner, or any other person. In paragraph 30 of the written statement it has been averred:

"It is wrong to say that the Respondent No. 1 pretended to be an ordinary resident of Patna at exhibition Road. The business of the Respondent No. 1 namely Auto Distributors Ltd. of which he is a Chairman, is located in a big house on Exhibition Road and it is wrong to think that Respondent No. 1 has not got an ordinary place to reside. Unless the Respondent No. 1 resides at Patna he is not supposed to look after his business. Hence the statement made by the Respondent No. 1 was correct and not pretention and that was also supported by a voter namely Sri Devendra Prasad Sinha of that area.

In paragraph 31 of the written statement, emphasis has been laid upon the correctness of the claim of the respondent No. 1 to be qualified to contest the election in the following terms:

"If the statement of the Respondent No. 1 would have been wrong, the petitioner and others, before being defeated in the election, must have objected and raised their fingers at all stages. Even at the time of the scrutiny of the nomination papers, where the petitioner was present, no objection was raised. He did not prefer to raise any objection anywhere at any stage since there was nothing wrong as regard the enrolment of the name of the Respondent No. 1".

Paragraph 23 of the election petition has been traversed in paragraph 35 of the written statement in the following terms:

"That the submission made in paragraph 23 of the election petition is wrong and misconceived. The inclusion of the name of the Respondent No. 1 in the electoral roll is never based on fraudulent representation and is never void or illegal and it is wrong to say that Respondent No. 1 was not qualified to be chosen to fill the seat. There was neither an deficiency of age nor absence of any qualification. The wild allegation made by the petitioner is nothing but an after-thought and has been manufactured after his defeat to make out an election petition."

Further, in paragraph 36, the case of respondent No. 1 is that the validity of the enrolment of respondent No. 1 as an elector in Patna West Assembly Constituency cannot be challenged by the petitioner in an election petition "In view of the remedy provided in the Representation of People Act 1950 and the Rules prescribed under that Act and in view of the provision of section 100 and section 64 etc. of the Representation of People Act, 1951".

10. The petitioner's case on the point of corrupt practices on the part of Respondent No. 1, his election agent and other agents, with his consent and connivance, has been emphatically repudiated at great length in paragraphs 37 to 43 and 46 of the written statement; and in answer to paragraph 27 of the election petition, it has been asserted in paragraph 45 of the written statement:

"That the submission made in paragraph 27 of the Election Petition is wrong and without substance. The nomination paper of the Respondent No. 1 was never improperly accepted and no corrupt practice, whatsoever, was committed in the interest of Respondent No. 1 either through him or through his agents. There has not been any breach of the provisions of the constitution of India or the provisions of the Representation of the People Act 1950 and in no case the result of election was materially affected."

And the allegations contained in paragraph 28 read with Annexure "D" of the election petition have been traversed in paragraphs 46 and 47 of the written statement. Finally, respondent No. 1 has denied the claim of the petitioner that he was in public life and an active participant in politics for a long time or that he had a bright chance of success at the election. According to the respondent, the petitioner has no social or political background, has done nothing for the service of the country and has merely been moving from one party to another. By mere chance once he had become a member of the Council of States. On the other hand, respondent No. 1 and his family members have served the country and society in different ways and have also done many constructive works, one such work being the creation of the Gurukul of Baidyanathdham. It has been asserted that "the respondent No. 1 never committed any corrupt practice and never purloined the support available to the petitioner. The petitioner received 21 votes which was more than enough. It is wrong to say that he could have received any more votes much less sufficient votes to be declared elected. The submission made by the petitioner for setting aside election and declaring him elected is wrong and baseless."

11. Upon the pleadings, the following issues have been framed for determination:

1. Is the election petition not in accordance with the provisions of sections 81, 82 and 117 of the Representation of the People Act, 1951? If so, is the election petition not maintainable?
2. Are the allegations made in the election petition fit to be struck off or ignored because of the non-compliance of the provisions of section 83 of the Representation of the People Act, 1951?
3. Is the election of respondent No. 1, fit to be declared as void on the ground that on the date of his election he was not qualified by reason of his age to be chosen to fill a seat in the Council of States.
4. Is the petitioner entitled to challenge the election of respondent No. 1 only when there were seven returned candidates in one composite election?
5. Was respondent No. 1 not qualified to be enrolled an elector in the electoral roll of Patna West Assembly Constituency for the time being in force? Is the petitioner entitled to challenge his election on that ground?
6. Was the nomination of respondent No. 1 improperly and illegally accepted? If, so, has it materially affected the result of the election?
7. Did respondent No. 1, his election agents any of his workers with his consent and connivance commit corrupt practices within the meaning of section 123(1) of the Representation of the People Act, 1951, by bribing the voters or offering bribe or promising to give bribe to the voters, as alleged in the election petition and the annexures thereof? If so, has the election of respondent No. 1 been materially affected on that ground?
8. Is the election of respondent No. 1 void?
9. Has the petitioner secured the majority of valid votes and is he entitled to be declared elected?
10. Has the result of the election, so far as respondent No. 1 is concerned, been materially affected by reason of non-observance of the rule regarding single transferable votes during the counting of votes, as alleged in paragraph 29 of the election petition?
11. Are the parties entitled to any other relief?

12. The first point which I propose to consider is whether this election petition is liable to be dismissed under section 86 of the Act, 1951, sub-section (1) of which provides:

"The High Court shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 or section 117".

The contention of Mr. K. P. Verma, who appears for respondent No. 1, is that there has been a non-compliance with the provisions of section 81(3) of a substantial character, and as such this election petition must be summarily dismissed under section 86(1) of the Act of 1951. Section 81(3) required two things; (i) that every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition, and (ii) that every such copy



shall be attested by the petitioner under his own signature to be a true copy of the petition. There is no dispute that the petitioner did file 19 copies of the election petition, one for each of the 19 respondents, and, accordingly, one such copy was served upon respondent No. 1 in the normal course. But the contention of Mr. Verma is that the copy which was served upon his client is not a true copy of the election petition as contemplated by section 81(3), though attested as much by the petitioner under his own signature. Ext. 'O' is alleged to be the copy filed by the petitioner and served upon respondent No. 1 as aforesaid. But that has been disputed by Mr. Balbhadra Prasad Singh appearing for the petitioner, who has characterised Ext. 'O' as faked. In this context the following questions arise for consideration: (1) Whether Ext. 'O' is the identical copy of the election petition which was filed by the petitioner and served upon respondent No. 1, and (ii) Whether Ext. 'O' is not a true copy of the election petition. The question as to whether the election petition must be summarily dismissed under section 86(1) of the Act, of 1951 can only arise if the two questions just formulated are answered in favour of respondent No. 1.

13. For the decision of the first question, it is necessary to state the circumstances under which Ext. 'O' was brought on the record. On the 25th April, 1969, while the 6th witness of the petitioner, Shri Mahabir Paswan, was deposing, Mr. Verma on behalf of respondent No. 1 produced Ext. 'O' for my examination saying that it is the copy of the election petition which has been served upon his client and that it is not really a true copy thereof. I indicated to Mr. Verma that I could not go into this question unless Ext. 'O' was brought on the record as an exhibit in the case. Accordingly, on the 26th April, 1969, Mr. Verma filed Ext. 'O', and on 28th April, 1969, he filed a verified petition containing the following prayer:

"It is therefore, prayed that your lordships may be pleased to allow this petition and the copy of the election petition, separately filed, to be kept on record and after hearing the parties be further pleased to dismiss the election petition under section 86 for non-compliance of the provision of section 81 of the R.P. Act 1951, or pass any other order or orders as your Lordships think fit and proper."

Ext. 'O' was ordered to be kept on record with a note that the matter would be considered if pressed during the arguments, leaving it on pen to the petitioner to file a rejoinder to this petition before the arguments began. Accordingly, the petitioner filed a rejoinder in the form of a counter-affidavit on the 7th May, 1969, in Paragraph 4 of which it was stated:

"That similarly the contents of paragraph No. 4 of the petition under reply are incomplete as such vague and misleading. Immediately after the examination-in-chief of P.W. 6 and before his cross-examination Sri Kanhaiya Prasad Verma, the learned Advocate appearing for the respondent No. 1, asked for the original election petition filed before this Hon'ble Court, pursued it and then started the cross-examination of the said P.W. the error in the last date mentioned in Annexure 'C' at page 32 of the copy of election petition allegedly served upon respondent No. 1 is only a typing error and certainly it was not calculated to mislead anybody nor it has misled any body as a matter of fact."

In paragraph 5, it was stated:

"That the contents of paragraph 5 of the petition under reply are misrepresentation of facts. There is no variation in the pleadings in the two documents referred to in that paragraph, rather the mention of 28th March, 1968 instead of 25th March, 1968 as alleged is a *bona-fide* typing error which could not be discovered by the petitioner earlier."

The recording of oral evidence was concluded on 15th May, 1969 and on 16th June, 1969, several documents were formally marked as exhibits on both sides, and among them is Ext. 'O'. The point to be noticed is that until 16th May, 1969, it was never suggested on behalf of the petitioner that Ext. 'O' is faked and not the identical copy of the election petition filed by the petitioner and served upon respondent No. 1 in the usual course. It was really during the arguments of the learned counsel for the petitioner that for the first time the suggestion was put forward that Ext. 'O' is a faked document. In view of the belated stand thus put forward on behalf of the petitioner, it is difficult to accept the suggestion about Ext. 'O' being spurious. Had there been any truth in this suggestion then the counter-affidavit filed on behalf of the petitioner on the 7th May, 1969,

would have been very differently worded. Besides, in that even Ext. 'O' would not have been allowed to be admitted into evidence on 16th May, 1969 without objection:

14. The fact that Ext. 'O' is the identical copy of the election petition filed by the petitioner and served upon respondent No. 1 is also apparent from the circumstances that two similar copies of the election petition filed by the petitioner and meant for service upon respondents Nos. 4 and 5 are still in the record of his case since the service of notice of the election petition could not be effected upon them in the ordinary course and recourse had to be taken to the provision of Order 5, rule 20 of the Code of Civil Procedure, Comparing Ext. 'O' with the other two copies of the election petition (meant for service upon respondents 4 and 5 respectively), I have no manner of doubt in my mind that it is the identical copy of the election petition which was filed by the petitioner and served upon respondent No. 1, and that there is no merit in the contention of the learned Counsel for the petitioner that Ext. 'O' is a faked document. Learned Counsel for the petitioner, however, contends that in order to prove the genuineness of Ext. 'O', respondent No. 1 should have filed an extra copy of the election petition which had been filed by the petitioner for the purpose of effecting service of notice upon him by post; and that having not been done, it will be unsafe to hold Ext. 'O' to be a genuine copy of the election petition which was filed by the petitioner. In my opinion, there is no force in this contention, having regard to the fact that, the genuineness of Ext. 'O' was not called in question while evidence was being adduced at the trial. In my opinion, no duty lay upon respondent No. 1 to produce the extra copy, the genuineness of which he did not challenge, and which was also not the copy accompanying the election petition, but filed subsequently. Therefore, for the reasons which I have given above, I hold that Ext. 'O' is not a spurious document, but the identical copy of the election petition which was filed by the petitioner for service upon respondent No. 1, as contemplated by section 81(3) of the Act of 1951.

15. The next question is whether Ext. 'O' is not a true copy of the election petition as urged on behalf of respondent No. 1. My attention has been drawn to certain discrepancies between Ext. 'O' and the original election petition which are set out below:

- (a) In paragraph 12, as also in paragraph 13 of the original, it has been stated that the total number of elected members of the Bihar Legislative Assembly at the time of the impugned election was 316, whereas in Ext. 'O', this figure has been stated to be 317 in both these paragraphs;
- (b) In paragraph 16 of the original, it has been stated that respondents 2 and 3 had been set up as candidates in the election by the Sanyukta Socialist Party, and as to respondents 6 and 5, it was stated that they had been set up by the Communist Party of India and the Jana Sangh respectively. But in Ext. 'O' it has been stated that the candidates who were set up by the Sanyukta Socialist Party were respondents 2 and 6, while respondents 3 and 5 had been set up by the Communist Party of India and the Jana Sangh respectively;
- (c) In paragraph 28 of the original, the following passage occurs:  
 "Particulars of the gifts and gratifications in the form of bribe offered by respondent No. 8 and his election agent and his agent with the connivance and consent of the said respondent No. 8 and his election agent are set out in Annexure 'D' hereto annexed."

But the passage in Ext. 'O' reads:

"Particulars of the gifts and gratifications in the form of bribe offered by respondent No. 8 and his election agent and his agent with the connivance and consent of the said respondent No. 1 and his election agent are set out in Annexure 'D' hereto annexed";

- (d) In paragraph 3 of the verification at page 25 of the original, it has been stated, *inter alia*, that the statements made in paragraph 3 of the election petition are true to the petitioner's information, but in Ext. 'O', no verification has been made with respect to the statements made in paragraph 3 of the election petition and instead verification has been made twice with respect to the statements made in paragraph 2, once as true to the petitioner's knowledge and again as true to his information;

- (e) In paragraph 3 of Annexure 'B', a list of 20 persons has been given, one of which is Shri Brindaban Swana, M.L.A. in the original, and Shri Brindaban Swansi, M.L.A. in Ext. 'O';
- (f) In Annexure 'C' relating to the particulars of corrupt practice mentioned in paragraph 25 of the election petition, it has been stated in the original that Shri Munshi Hansda, M.L.A., had offered money and promised to pay money to Shri Jetha Kisku, M.L.A., for casting his first preference vote in favour of respondent No. 1 at the M.L.A. Fiat on 19th March, 1968, but in Ext. 'O' mention has been made of the name of Shri Paul Hansda, M.L.A., as the alleged offerer of money to Shri Jethu Kisku, M.L.A.; and
- (g) In Annexure 'C' again, the original reads that the offer of money and promise of payment of money was made to Shri Mahabir Paswan by Respondent No. 1 and Shri Balwant Nath Singh M.L.A., on 26th March, 1968, but in Ext. 'O', this date has been stated as 28th March, 1968.

16. Having regard to these discrepancies between the original election petition and the copy (Ext. 'O'), Mr. Verma contends that Ext. 'O' is not a copy, far less, a true copy of the election petition as contemplated by section 81(3) of the Act of 1951, and as such there has been a non-compliance of the provision of section 81 (3), whereby the peremptory provision of section 86(1) of the Act of 1951 is attracted. As against this, Mr. Singh for the petitioner contends that the discrepancies between the original and Ext. 'O' are inconsequential and by no means of such a vital character as to attract the peremptory provision of section 86(1).'

17. The true meaning of the word "copy" which occurs in section 81(3) has been indicated by their Lordships of the Supreme Court in *Murarka Radhey Shyam. Ram Kumar V. Roop Singh Rathore and others* (A.I.R. 1964 Supreme Court 1545). There it has been held that the word "copy" in subsection (3) of section 81 does not mean an absolutely exact copy, but means that the copy shall be so true that nobody can by any possibility misunderstand it. The test to be applied in such a case is whether the copy is such that any variation from the original is calculated to mislead an ordinary person. In other words, a true copy need not necessarily be an exact copy and may be accepted as true copy so long as any error or omission therein is merely clerical and of such a nature that nobody would be misled thereby. In the light of this authoritative pronouncement of the Supreme Court, the point which falls far my consideration is whether the discrepancies between the original election petition and the copy (Ext. 'O'), which have been noticed above, are merely inconsequential or whether they are of such a character as to mislead an ordinary person. So far as discrepancies (a) and (b) are concerned, I am inclined to think that they are inconsequential as they are not likely to mislead an ordinary person. The questions as to what was the total number of elected member of the Assembly at the material time and which candidate had been set up by which political party could not possibly mislead the respondent in the matter of making his defence. These are also not material question for decision in this election petition. For the same reason the discrepancy (e) as to "Swana" and "Swansi" may safely be ignored. The same thing, however, cannot be said with regard to the other four discrepancies referred to above. Each of these four discrepancies is of a vital character and anybody who reads the copy (Ext. 'O') and proceeds to act upon it without verifying it with the original is bound to be misled with regard to the true averments contained in the election petition. I would particularly stress upon the two discrepancies (f) and (g), one as to the name and the other as to the date with respect to the particulars in Annexure 'C', as I consider both of them to be on vital matters, since in regard to them it is impossible to think that nobody can be misled by the copy (Ext. 'O'). It is to be remembered that one of the requirements of an election petition is that it must set forth "full particulars of any corrupt practice that the petitioner alleges including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice" : vide section 83(1) (b) of the Act of 1951. The two discrepancies pertaining to Annexure "C" of the election petition are, therefore, on vital matters, and going by the copy (Ext. 'O') only, an ordinary person is bound to be misled with regard to both these particulars of the alleged corrupt practice. Discrepancies of such a vital character cannot be passed by as being

inconsequential. I am, accordingly, of the opinion that Mr. Verma is right in his contention that Ext. 'O' is not a true copy of the original election petition as contemplated by section 81(3) of the Act of 1951.

18. Having found that the copy Ext. 'O' which the petitioner had filed along with the election petition for service upon respondent No. 1 is not a true copy as envisaged in section 81(3) of the Act, of 1951, I have no hesitation in holding that there has been a non-compliance in this respect within the meaning of section 86(1) of the Act. The copy (Ext. 'O') cannot fulfil the requirements of section 81(3) even though it has been attested by the petitioner under his own signature to be a true copy of the petition. Under section 81(3), emphasis has been laid upon the duty of an election petitioner to be astute in the matter of filing every copy of the election petition meant for service upon the respondents so as to ensure that each respondent is furnished with a true copy of the election petition along with the notice of the petition. In this connection it would be relevant to note that there was an amendment of the law on the subject in 1961. Under the previous law, the duty lay upon the Election Commission to ensure that the copies of the election petition meant for service on the respondents are true copies of the original so that if the copies thereof filed by the election petitioner were not true copies, then the defects therein could be rectified under the authority of the Election Commission. This entailed considerable inconvenience and delay in the trial of an election petition. Accordingly, the Parliament thought fit to make a provision for properly attested copies of the election petition meant for service upon the respondents, not only with a view to expedite the trial of an election petition, but also to put the responsibility for the accuracies of the copies to be served upon the respondents upon the election petitioner himself. The purpose of the amendment is that if the copies of the election petition served upon the respondents are not true copies of the original, then the responsibility for this defect must lay squarely upon the shoulder of the election petitioner, there being no duty on the respondents to make enquiries in order to satisfy themselves whether the copies supplied to them are true copies or not. It is manifest that the whole purpose of the amendment effected in 1961 would be frustrated if the respondents on whom copies of the election petition are served have still to compare them with the original and have them corrected if there are inaccuracies therein. Reading the provision of section 86(1) in this light, it is manifest that a substantial non-compliance of the requirements of section 81(3) is a fatal defect which has to be visited with the penalty indicated in section 86(1) of the Act of 1951. The question as to whether the word "shall" as used in sub-section (3) of section 81 is really intended to be mandatory or directory was raised before the Supreme Court in several cases before the amendment made in the Act of 1951 in the year 1966, but it was not finally decided. But after the amendment of the law made in 1966, whereby election petitions have been made triable by the High Court, the view that has prevailed in this Court is that the word "shall" used in sub-section (3) of section 81 is really intended to be mandatory, and not directory, and any substantial non-compliance of section 81(3) must entail the dismissal of the election petition under section 86(1): see for example the decision of K. K. Dutta, J. in *Dr. Lakhmi Prasad Agarwal V. Sri Nathmal Dokania* (Election Petition No. 19 of 1967) decided on the 30th November, 1967 (paragraphs 21 and 22). In *Priya Gupta V. Abrar Ahmad and others* (Election Petition No. 25 of 1967) decided on the 29th July, 1968, it has been pointed out that section 86 is a peremptory provision and admits on account of the non-compliance of the mandatory provision of section 81(3) of no exception and the Court must enforce it strictly if there is a non-compliance view that has thus prevailed in this Court. In *Mohan Rai V. Surendra Kumar Tavarla and others* (Civil Appeal No. 1801 of 1967) decided on the 12th August, 1968, it has been pointed out that section 86 is a peremptory provision and admits of no exception and the Court must enforce it strictly if there is a non-compliance with the requirements of section 82 and other sections mentioned in section 86(1). It seems to me, therefore, that there is no escape from the conclusion that this election petition must be dismissed under the provision of section 86(1) of the Act of 1951. Mr. Singh, however, contends that the penalty provided in section 86(1) should not be imposed unless it is further shown that by reason of the non-compliance with the provision of section 81(3), prejudice has been caused to respondent No. 1 in making his defence or in the trial of the election petition. According to Mr. Singh, no prejudice has been caused to respondent No. 1 on account of any of the inaccuracies in Ext. 'O'. In this connection it is pointed out that despite defect No. (f) in Ext. 'O', respondent No. 1 has led both oral and documentary evidence to combat the petitioner's case on the point of



corrupt practice committed by Shri Munshi Hansda. In my opinion, any consideration of the question of prejudice is out of place in view of the peremptory provision of section 81(3) and 86(1) of the Act of 1951. The consequence of the non-compliance of section 81(3) has been clearly indicated in section 86(1) and it would, in my opinion, be beyond the province of this court to introduce any consideration therein about prejudice in the matter of the strict enforcement of such a peremptory provision. However, I am not satisfied that no prejudice has been caused to respondent No. 1 by reason of defect No. (f) in Ext. 'O'. The case of respondent No. 1 with effect to Shri Munshi Hansda is that at the relevant time he was absent from Patna so that he could not possibly have indulged in the corrupt practice attributed to him in Annexure 'C' of the election petition. In order to prove his case on this point, Respondent No. 1 relied upon the evidence of R.W. 2, whose evidence has been characterised by Mr. Singh as no better than hearsay. Respondent No. 1 has also examined R.W. 3 to say that he had made certain enquiries and learnt that Shri Munshi Hansda was an indoor patient in a Christian Hospital at Mohul Pahari near Dumka in March 1968, from where he obtained a medical certificate (Ext. L) and a bill (Ext. M). Both Exts. L and M have been characterised by Mr. Singh as inadmissible in evidence. The evidence of R.W. 3 shows that he had been deputed by respondent No. 1 to make the above inquiries on the 5th May, 1969, that is to say, after respondent No. 1 had already entered upon his defence. Had the name of Shri Munshi Hansda found place in Annexure 'C' of Ext. 'O', then it was possible that respondent No. 1 would have been in a position to procure or adduce better evidence relating to the alleged illness of Shri Munshi Hansda and his hospitalisation at Mohul Pahari at the relevant time. As the record stands, it is manifest that respondent No. 1 was prejudiced in his defence relating to the corrupt practice attributed to Shri Munshi Hansda.

19. Mr. Singh also relies upon the decision of the Supreme Court in *Choudhary Subbarao v. Member, Election Tribunal, Hyderabad, and others* (A.I.R. 1964 Supreme Court, 1087), where it was held that if there is a substantial compliance with the requirement of section 81(3), the election petition cannot be dismissed. That, however, was a decision under the old law under which the Election Tribunal was authorised to dismiss an election petition under section 90(3), as it stood before the amendment made in 1966. Besides, the finding in that case was that there was no non-compliance with the name with the requirements of section 81(3). Upon the facts, therefore, *Choudhary Subbarao's* case (A.I.R. 1964 Supreme Court 1087) is distinguishable from the facts and the circumstances of the present case. The decision relied upon by Mr. Singh is, therefore, of no avail to the petitioner in this case.

20. For the reasons which I have set out above, I hold that this election petition is fit to be dismissed under section 86(1) on account of non-compliance with the mandatory provision of section 81(3) of the Act of 1951.

21. It is, however, desirable that I should record my decision also on the merits of this election petition, particularly because there is a bitter attack in it upon the purity of the impugned election. Before taking up the merits of the case, however, I ought to deal with a point about the maintainability of the election petition. The point raised by Mr. Verma is that the election in question was a composite election in respect of seven seats which had to be filled up in the Council of States by the constituency in question, and for this purpose the validly recorded votes had to be rotated in accordance with the procedure laid down in rules 76 to 81 of the Conduct of Election Rules, 1961, in order to decide which of the seven contesting candidates were entitled to be declared elected. In such a situation, according to Mr. Verma, the election of only one of the returned candidates, to the exclusion of the other six, cannot be called into question. It is pointed out that if the election of respondent No. 1 alone were to be declared to be void, then it would not be possible to ascertain how the first preference and other votes counted in his favour ought to have been dealt with, and so there would be a corresponding repercussion upon the election of the other contesting candidates, the manner of which would remain undecided. It is therefore, urged that the election petition designed to avoid the election of only one of the seven successful candidates is not maintainable at all. In support of the contention Mr. Verma relies upon the decision of the Election Commission in *Rai Bahadur Surendra Narayan Sinha v. Ambuladhane Roy and 43 others*, incorporated in *Sen and Poddar's Indian Election Cases, 1935-1951*, at pages 188-201. At page 200 of the Book, the following passage occurs:

"The system of election by means of the single transferable vote is so interlocked that unless anomaly is to be avoided it seems difficult in fact

to provide for interference with one election without the election being upset as a whole. This in turn leads to some anomaly in that entirely innocent persons duly elected would have to be unseated. Mr. Amulyadhore Roy and the petitioner, for example, cannot be put in the position of contesting for a seat except at an election where there are eight other seats being filled, besides the ninth which is the only one that can come into the picture so far as they are concerned; only thus can these two be enabled to repeat the contest found to have been irregular."

The point raised by Mr. Verma is, no doubt, attractive but I do not think that it can succeed. The reason is that if the election of respondent No. 1 is found to have been vitiated on the ground of commission of corrupt practice, as alleged in the election petition, then it cannot be allowed to stand despite certain anomalies which might arise in the matter of the election of the other contesting candidates. The court must show greater concern for the purity of election than for such anomalies; and as between the two evils, it must disfavour an election tainted with corrupt practice. I, therefore, hold that this election petition cannot be dismissed as unmaintainable on the ground that it seeks to challenge the election of only one of the seven returned candidates.

22. On the merits of the case the first question which I ought to consider is the question relating to the qualification of respondent No. 1 to fill the seat in the Council of States. The qualifications which I have in mind are, firstly, as to the age, and, secondly, as to the residence. The qualification as to the age is to be found in Article 84 of the Constitution where it is provided that a person shall not be qualified to be chosen to fill a seat in the Council of States unless, he is not less than thirty years of age. In paragraph 23 of the election petition it has, no doubt, been stated that respondent No. 1 was not qualified to be chosen to fill a seat in the Council of States by reason of deficiency of his age, but it has not been alleged what precisely was his age at the time of the election. No evidence also has been adduced on the side of the petitioner on the point of respondent No. 1's age. As against this, respondent No. 1 deposing as R.W. 5 has stated that he was born on the 5th December, 1936, and this has not been specifically challenged in his cross-examination. Besides, during the arguments, Mr. Singh indicated that he does not press Issue No. 3 which has been framed for determination in this case. Without pursuing the point any further, I hold that the election of respondent No. 1 is not invalid for lack of his requisite age qualification.

23. So far as the qualification as to the residence is concerned, it is to be found in section 3 of the Act of 1951 which reads:

"A person shall not be qualified to be chosen as a representative of any Stage or Union territory in the Council of States unless he is an elector for a Parliamentary constituency in that State, or territory."

The case set up by the petitioner is that at the relevant time respondent No. 1 was not ordinarily resident in any Parliamentary constituency of the State of Bihar, and, as such, he was not entitled to be enrolled as an elector of the Patna West Assembly Constituency, and yet he got his name included in the electoral roll of that constituency by resorting to questionable means. The stand taken by respondent No. 1, on the other hand, is that he was ordinarily resident of Patna West Assembly constituency at the relevant time, and as such, he was fully entitled to be enrolled as an elector in that constituency, and that there is no truth in the allegation made by the petitioner that his name was included in the electoral roll of that constituency through questionable means. Respondent No. 1 admits that his name was registered as an elector in the Alipur Constituency of the West Bengal Assembly in 1966, but he has relied upon his application (Ext. 3) to show that while seeking his enrolment as an elector in Patna West Assembly Constituency, he had requested that his name should be deleted from the electoral roll of the Alipur Assembly constituency of the West Bengal, if his name was still there. Evidence has been adduced on either side in support of the rival cases as to the residence of respondent No. 1 at the time of the impugned election. According to the evidence which the petitioner has adduced, respondent No. 1 is only an occasional visitor to Patna, where he comes from time to time in connection with his business affairs, and whenever he comes to Patna, he stays in a hotel known as the Hotel Republic, as indicated in the Visitors' Book of that hotel, two volumes of which are on the record as Exts. 2 and 2/1. Respondent No. 1 has deposed that since 1967, he has been ordinarily residing at Patna, where he lived in a building situated on the Exhibition Road, known as the Hawaii Mahal, until



the beginning of the current year, when he shifted to another house in the Patliputra Colony. But the truth of the evidence thus given by R.W. 5 has been vigorously assailed in his cross-examination. Reading the relevant entries in Exts. 2 and 2/1 and the evidence of R.W. 5 as a whole, I find it difficult to accept his claim that he had any permanent place of residence in Patna, or that he was ordinarily resident there at the time of the present election. In the normal course, therefore, he was not entitled to be enrolled as an elector in the electoral roll of Patna West Assembly Constituency. Section 19 of the Act of 1950 clearly provides that one of the conditions of registration of a person in the electoral roll of a constituency is that he must be ordinarily resident in that constituency. Even so, I fail to see how this can be of any avail to the petitioner in this case. The Question as to whether a person is or is not entitled to be registered in an electoral roll is a matter of the satisfaction of the Electoral Registration Officer (see section 23(2) of the Act of 1950). Besides, section 24 of the said Act provides for an appeal to the Chief Electoral Officer from any order of the Electoral Registration Officer made under section 23. In other words, the Act of 1950 provides an independent forum for dealing with all questions relating to the preparation and revision of electoral rolls and correctness or amendment of entries made therein. If, therefore, the registration of respondent No. 1's name in the electoral roll of Patna West Assembly Constituency was improperly or fraudulently done, then the remedy of the petitioner lay before the Chief Electoral Officer in an appeal under section 24 of the Act of 1950. There is no evidence that any objection to the registration of respondent No. 1's name was raised before the Assistant Electoral Registration Officer or that any appeal against his order was taken to the Chief Electoral Officer. There is also no evidence whatsoever to show that any objection was raised by anybody before the Returning Officer to the acceptance of the nomination of respondent No. 1 as a candidate for the impugned election. In my opinion, therefore, it is too late in the day for the petitioner to dispute the propriety of the registration of respondent No. 1's name in the electoral roll. In an election petition the jurisdiction of this Court is confined to the matters indicated in sections 100 and 101 of the Act of 1951. It is unnecessary to set out these sections at length. Suffice it to say that in dealing with an election petition, this Court is solely concerned with matters involving infraction of the Constitution or of any of the provisions of the Act of 1951. Any infraction of the provisions of the Act of 1950 is beyond the scope of the inquiry which this Court is called upon to make in an election petition, unless it is of such a nature as also to involve a contravention of or non-compliance with the provisions of the Constitution or of the Act of 1951, or of any rule or order made under that Act. So far as the Act of 1951 is concerned, it is enough that respondent No. 1 is an elector within the meaning of clause (e) of section 2(1). Even upon the case of the petitioner himself, the name of respondent No. 1 was included in the electoral roll of Patna West Assembly Constituency before the expiry of the last date for making nominations for the election in question. It has been shown to me that this has involved any breach of the provisions of the Constitution or of the Act of 1951. It is, therefore, not competent for this Court to go behind the correctness of the relevant entry in the electoral roll and to say that respondent No. 1 was not qualified to fill the seat in the Council of States as a representative of the State of Bihar. Nor it can be suggested that the nomination of respondent No. 1 for the impugned election was improperly accepted in contravention of section 36 of the Act of 1951. I am, therefore, of the opinion that the election of respondent No. 1 cannot be called in question on the ground that he was not entitled to be registered as an elector of Patna West Assembly constituency at the material time.

24. The view which I take receives considerable support from a recent decision of the Calcutta High Court. In *Kanailal Bhattacharjee v. Nikhil Das* and another (A.I.R. 1969 Calcutta 267), one of the grounds on which the election of the returned candidate was challenged was that he was not ordinarily resident in the constituency from where he was elected to the Assembly, though his name did appear in the electoral roll of that constituency. Dealing with this question, S. P. Mitra, J. observed at page 271 as follows:

"From the above provisions of the 1950 Act and the Registration of Electors Rules, 1960, it appears that Parliament has prescribed a complete code (a) for preparation of electoral roll (b) for objections thereto (c) for inclusion of names (d) for correction of entries and (e) for appeals from various decisions of the registration officer."

Rejecting the contention put forward on behalf of the petitioner that violations of the Act of 1950 are still within the purview of Election Court, his Lordship observed at page 273 as follows:

"Upon considering the relevant statutory provisions and the authorities aforesaid it is at least clear that a violation or non-observance purely

of the Act of 1950 or any rules made thereunder is outside the purview of Section 100(1)(d)(iv) of the Representation of the People Act, 1951 and as such, an Election Court which derives its jurisdiction from the 1951 Act is not entitled to look into that violation or non-observance."

His Lordship then proceeded to consider whether the inclusion of a non-resident in the electoral roll of a constituency involved any violation of Article 326 of the Constitution, and held that it did not. Adverting to the provisions of the Act of 1951, his Lordship held at page 279 that the High Court trying an election petition under the Act of 1951 has no jurisdiction to question the legality of inclusion of a person's name in an electoral roll, except where it can be shown that there has been a violation of an express provision of the Constitution. With respect, I find myself in complete agreement with the views expressed in this decision. For the aforesaid reasons, the first ground of attack against the validity of the election of respondent No. 1 put forward in this election petition must fail.

25. The more vital question for decision is whether the election of respondent No. 1 should be declared as void on the ground of commission of acts of corrupt practice as alleged in the election petition. But before proceeding to deal with this question, I would like to give a brief outline of the activities of the various political parties in the State of Bihar on the eve of the impugned election. After the general election of 1967, a coalition Government, popularly known as the United Front Government, was formed under the leadership of Sri Mahamaya Prasad Sinha, the leader of the Bhartiya Kranti Dal (B.K.D.), with the support of other non-Congress political parties, including the Swatantra Party, of which the then leader was the Raja Bahadur of Ramgarh, Shri Kamakhya Narain Singh. In fact, the Raja Bahadur was also a member of the Mahamaya cabinet. Within a few months, however, several members belonging to the constituent units of the United Front Government withdrew their allegiance from it and formed a new political party, known as the Shoshit Dal, in a bid to topple the Mahamaya ministry and to form another Government. The Shoshit Dal, which was founded on the 2nd October, 1967, had the support of the Congress Party in acting in opposition to the United Front Government. The opposition proved so effective that the United Front Government led by Shri Mahamaya Prasad Sinha was voted out of power on the 25th January, 1968. Two days later, namely, on the 27th January, 1968, a new Government was formed with Shri Satish Prasad Singh (R.W. 2) of the Shoshit Dal as the Chief Minister. The strength of the Shoshit Dal in the Bihar Assembly was 27, and it had the support of 11 or 12 other legislators. The Congress Party also lent its support to the Shoshit Dal Government. Shri Satish Prasad Singh, however, functioned as the Chief Minister for only three days, after which he stepped down at the direction of his party in favour of Shri B. P. Mandal, a member of the Parliament, who was in the meantime, nominated as a member of the Bihar Legislative Council, as he was the chief leader of the Shoshit Dal. In the cabinet formed by Shri B. P. Mandal, Shri Satish Prasad Singh was included as a minister and held the portfolios of Food and Supply. But the rise of the Shoshit Dal to power was short-lived. It was confronted by an opposition formed by the other non-Congress political parties, which was known as the Sanyukta Vidhayak Dal, under the leadership of Shri Bhola Paswan Shastri. The opposition put forward by the Sanyukta Vidhayak Dal proved so strong that despite the support extended to it by the Congress Party, the ministry of Shri B. P. Mandal collapsed on the 18th March, 1968, as a result of a no-confidence motion which was passed against it at the instance of the legislators belonging to the Sanyukta Vidhayak Dal, which included the members of the B.K.D. and the Swatantra Party. Within a few days thereafter, Shri Bhola Paswan Shastri formed a new ministry as the leader of the Sanyukta Vidhayak Dal. At that stage, however, the B.K.D. had to face a rough weather. There was a sharp difference of opinion between its leader Shri Mahamaya Prasad Sinha and the Raja Bahadur of Ramgarh on the issue of their joining the Bhola Paswan Shastri cabinet. The Raja Bahadur defected into the Janta Party, of which he was the leader before the general election of 1967. Having thus parted political company with the B.K.D., the Raja Bahadur joined the cabinet of Shri Bhola Paswan Shastri. Several other legislators belonging to the B.K.D. also defected from that party, and the result was that the strength of the B.K.D., which was 20, was reduced to only 3. However, the Bhola Paswan Shastri Ministry was also short-lived and it went out of office in the last week of June, 1968, after which the Assembly was dissolved and the President's rule was imposed in Bihar. It will thus be seen that the present impugned election had taken place at a time when the atmosphere that was prevailing in Bihar was one of great political rivalry and acrimony.

26. This much is quite clear from the materials on the record that, in particular, the relationship between the members and supporters of the Shoshit Dal and those of the political parties which were the constituent units of the United Front Government was one of great political bitterness. As stated by Sri Jaswant Kumar Choudhary (P.W. 4), himself a member of the Swatantra Party, the Shoshit Dal was formed by certain defectors of the constituent units of the United Front Government with the avowed aim of forming the Government. The fact was that in less than four months, after its formation, the Shoshit Dal with the support of the Congress Party had succeeded not merely in voting the United Front Government out of power, but also in wresting the power for itself. Besides, during the brief tenure of its office, the Shoshit Dal Government had taken certain strong measures against the Raja Bahadur of Ramgarh, who was one of the ministers in the Mahamaya cabinet. The evidence of Shri Balwant Nath Singh (R.W. 1) shows that Shri Kamakhya Narain Singh was the minister incharge of Mines and Minerals in the United Front Government, and in connection with mines and minerals a case between the Bihar Government and Shri Kamakhya Narain Singh was pending in the Calcutta High Court. Shortly before the fall of the Mahamaya ministry, the case in the Calcutta High Court was withdrawn on behalf of the Government, but when the Shoshit Dal Government came into power, R.W. 1 became the minister incharge of Mines and Minerals, and during his ministry, the Bihar Government got that case restored in the Calcutta High Court. The evidence of R.W. 1 as also of P.W. 6 further shows that another action which the Shoshit Dal Government had taken was to constitute an Enquiry Commission to enquire into the actions of Shri Kamakhya Narain Singh and others. These facts have not been controverted on behalf of the petitioner and it is, therefore, legitimate to think that the members of the Swatantra and other constituent parties of the United Front Government were on terms of great bitterness with the members and supporters of the Shoshit Dal, and this bitterness continued not only at the time of the impugned election, but even afterwards.

27. So far as the petitioner is concerned, the admitted position is that at the time of the impugned election, he was a member of the Swatantra Party and he was sponsored as a candidate in the election by the B.K.D., with which the Swatantra Party was in coalition. It is also abundantly clear from the materials on the record that he had great political attachment with Shri Kamakhya Narain Singh. Initially both he and Shri Kamakhya Narain Singh were members of the Janta Party with Shri Kamakhya Narain Singh as its leader. But on the eve of the formation of the United Front Government, the Janta Party had merged with the Swatantra Party, of which Shri Kamakhya Narain Singh became the leader and the petitioner became the General Secretary of the Bihar Unit of the Party. Both of them remained in the Swatantra Party while the Mahamaya ministry was in power as well as until the fall of the Shoshit Dal Government, which took place only ten days before the impugned election. But when there was some difference between Shri Kamakhya Narain Singh and Shri Mahamaya Prasad Sinha, on the question as to whether the B.K.D. should join the ministry of Shri Bhola Paswan Shastri or not, then Shri Kamakhya Narain Singh left the Swatantra Party and reverted to the Janta Party, of which he was the accredited leader. When Shri Kamakhya Narain Singh reverted to the Janta Party, then the petitioner also joined that party. In other words, the petitioner was a sharer in the acrimony between his party and the Shoshit Dal.

28. So far as respondent No. 1 is concerned, he has been rightly described by the learned counsel for the petitioner as a stranger in the politics of Bihar. Respondent No. 1 (R.W. 5) has himself stated that he was elected to the Bengal Assembly in the general election held in 1967 and remained a member of that Assembly until its dissolution on the 20th January, 1968. It was thereafter that he transferred his political activities to Bihar. The petitioner's version as to how respondent No. 1 enlisted the support of the members of the newly established shoshit Dal has been set out in paragraph 20 of the election petition, where, in substance, it has been stated that while the no-confidence motion against the Shoshit Dal Government "under the initiative of the Sanyukta Vidhayak Dal was on the anvil, the said respondent, with a view to ensure the sympathy and support of the persons in power, offered his purse to some members of the said Ministry to buy, if possible, the secession of members affiliated to the party-sponsors of the no-confidence motion and to enlist their support to the said ministry and by way of reciprocal arrangement and advantage sought the support and backing of some of the Ministers, particularly the then Chief Minister and his friend and colleague, Shri Balwant Nath Singh, the then State Minister incharge Mines Department. In respect of his intended candidature for election to the Rajya Sabha". Such mutual



understanding is alleged to have been arrived at between respondent No. 1 and the leaders of the Shoshit Dal a few days before the 18th March, 1968, the date when the no-confidence motion against the Shoshit Dal Government was passed. But this has been stoutly denied in paragraph 32 of the written statement of respondent No. 1, whose case, in substance, is that he had formally joined the Shoshit Dal as a member in February, 1968, and he had contested the impugned election as the official candidate of that party. On the side of the petitioner, no attempt has been made to substantiate the allegations of offer of money leading to reciprocal arrangement or mutual understanding put forward in paragraph 20 of the election petition. Even though Shri Satya Narain Sharma (P.W. 7) has said something about the prospective candidate being required to contribute to the party fund—a story not to be found in the election petition he has made no mention about any reciprocal arrangement between the Dal and respondent No. 1, either for supporting the Shoshit Dal ministry or for buying the support of the sponsors of the no-confidence motion. As against this, respondent No. 1 has adduced some evidence in support of his case that he was enrolled as a member of the Shoshit Dal and that he was sponsored as the official candidate of the Shoshit Dal for election to the Rajya Sabha. He has brought on the record a membership enrolment form (Ext. G) to show that he was admitted as a member of the Shoshit Dal on the 10th February, 1968. He has also brought on the record Ext. I which purports to be the copy of a resolution signed by Shri Jagdeo Prasad as Convenor of the Shoshit Dal dated the 21st March, 1968, and reads:

“At a meeting of the Parliamentary Board of the Shoshit Dal held tonight at the residence of the Chief Minister, Shri B. P. Mandal, it was decided that Shri R. K. Poddar be adopted as the Shoshit Dal candidate for the Rajya Sabha.”

In course of his arguments learned counsel for the petitioner vehemently assailed the authenticity of Exts. G. and I, both of which were produced by respondent No. 1 from his own custody. As to Ext. G, it was urged that its reliability has not been established with reference to its counterfoil from the Shoshit Dal Secretariat. In regard to Ext. I it was argued that it has not been properly proved and it has not been supported by calling for other official records of the Parliamentary Board of the Shoshit Dal referred to by R.W. 2, such as, the application, if any, made to the Dal by respondent No. 1 for his nomination as the Party's candidate, the agenda of the meeting supposed to have been held on 21st March, 1968, and minutes book of the Executive Committee or the so-called Parliamentary Board of the Party. It has been pointed out that according to R.W. 1, a whip had been issued on 27th March, 1968 by the Shoshit Dal in connection with the candidature of one Shri Bhagwan Singh, who was set up by the Shoshit Dal as its Party's candidate for election to the Bihar Legislative Council which had taken place at about the same time. It has been urged that had respondent No. 1 been set up as the Party's candidate for election to the Rajya Sabha, then it was expected that a similar whip would have been issued in connection with his candidature, but no such document has been brought on the record. The argument of learned counsel for the petitioner is that upon the failure of respondent No. 1 to bring such vital documents on the record, an inference should be drawn that there is no truth in his claim that he was admitted as a member of the Shoshit Dal or that he was adopted as the official candidate of that Dal for the Rajya Sabha election. In this connection, I have been referred to the recent decision of The Supreme Court in the case of Dr. M. Chenna Reddy V. V. Ramchandra Rao and another (Civil Appeal No. 1449 of 1968) decided on the 17th December, 1968, where it has been pointed out that there is an inherent difference between the trial of an election petition and a criminal trial. Unlike in a criminal trial, the candidate charged with corrupt practice in an election petition invariably leads evidence to prove his denial. In such a case, the duty of the Court is to weigh the two versions and come to a conclusion as to whether notwithstanding the denial and the evidence in rebuttal, a reasonable person can form the opinion that on the evidence the charge is satisfactorily established. The Court also cannot lose sight of the fact that quite apart from the nature of the charge, the trial itself goes on as if the issues in a civil suit are being investigated into. The petitioner has to give particulars of the corrupt practice with details, in default whereof, the allegations may be ignored. The procedure before the High Court has to be in accordance with that applicable to the trial of suits under the Code of Civil Procedure with the aid of the provisions of the Evidence Act. Therefore, it is permissible to draw inference against the party who does not call evidence which should be available in support of his version. In my opinion, however, there are two difficulties in the way of accepting these contentions of the learned counsel for the petitioner. One is that the petitioner has led no positive evidence to the effect that respondent No. 1 was not

enrolled as a member of the Shoshit Dal or that he was not set up by that party as its candidate in the election. Secondly, Exts. G and I were allowed to go into evidence without objection, and not even a suggestion was thrown to R.W. 1 who proved these two documents that they were not genuine. In his examination-in-chief R.W. 1 said:

"I know Shri Rajendra Kumar Poddar, who is the respondent in this case. In 1968, he was a member of the Shoshit Dal. I identify the writing of Shri Jagdeo Prasad as well as of Shri Rajendra Kumar Poddar. This membership receipt is of my party and I identify the writings thereon of Shri Jagdeo Prasad and Shri R. K. Poddar (Points out-Marked Ext. G)."

R.W. 1 further stated:

"On 21st March 1968 a formal resolution was passed by our party nominating Shri Poddar as our candidate in the election. A copy of that resolution was forwarded to the candidate concerned. This is the copy of the resolution bearing the signature of Shri Jagdeo Prasad which I identify (marked Ext. 'I')."

These two statements of R.W. 1 were not specifically challenged in his cross-examination. Besides, one of the petitioner's witnesses, Shri Shambhu Nath Jha (P.W. 2) had earlier stated in no uncertain words that "Shoshit Dal had adopted Rajendra Kumar Poddar as a candidate of its party for the Rajya Sabha". The evidence of Brijmohan Singh (P.W. 5) was that R.W. 1 had told him that Shoshit Dal wanted Poddar to be elected to the Rajya Sabha. The evidence of Satya Narain Sharma (P.W. 7) was that Shri Poddar had approached the legislators of the Shoshit Dal for their support of his candidature and that in support of his candidature some of the legislators of the Shoshit Dal, among whom were Mahanth Sukhdeo Giri, Balwant Nath Singh, Jagdeo Prasad and others who had pleaded for the party's support. It would thus appear that it was more or less undisputed at the time when the petitioner led evidence, and even until R.W. 1 deposed, that the respondent No. 1 had become a member of the Shoshit Dal and that the Dal had adopted him as its candidate in the Rajya Sabha election. It was not until R.W. 2 came to the witness-box that the petitioner abandoned his former stand and cross-examined R.Ws. 2 and 5 at great length with a view to discredit the respondent's case on both these points. I do not think that by reason of such a change of front on the part of the petitioner, any duty lay upon respondent No. 1 to bring on the record any further materials in support of Exts. G and I. It would, therefore, be unreasonable to draw any adverse inference against him, as suggested on behalf of the petitioner.

29 Learned counsel for the petitioner has also relied upon several statements of R.Ws. 2 and 5 with a view to demonstrate that their evidence about respondent No. 1 having been adopted as the official candidate of the Shoshit Dal in the impugned election is unworthy of credence. I have gone through the evidence of these two witnesses minutely, and I may say that had they stood by themselves, I would have been inclined to accept the contention put forward on behalf of the petitioner. But the fact is that there are various other materials on the record which lend considerable support to the case of respondent No. 1 that the Shoshit Dal did adopt him as its candidate in the impugned election. I have already referred to the evidence of P.W. 2 on this point. The evidence of P.W. 7 also shows that the candidature of respondent No. 1 did come up for consideration repeatedly before the members of the Shoshit Dal and in the discussion of his political party. P.W. 7 had opposed the candidature of respondent No. 1 on some ground to which I will advert later. If Ext. I is genuine, as I hold it to be, then it is manifest that the outcome of the discussion, to which P.W. 7 has referred, was that the Shoshit Dal had ultimately decided, at least one week before the day of poll, that respondent No. 1 would be its official candidate in the election. This also explains the circumstances that respondent No. 1 had filed his nomination (Exts. H and H/1) on the 18th March, 1968, as an independent candidate. Even according to the case set up by the petitioner in paragraph 20 of his election petition, the dialogue between respondent No. 1 and the leaders of the Shoshit Dal was concluded before that date. But since no formal resolution was adopted by the party until the 21st March, 1968, it is manifest that respondent No. 1 could not have described himself as the official candidate of the Shoshit Dal in his nominations (Exts. H and H/1). But the fact that an informal decision to this effect had already been taken by the party leaders is indicated strongly by the fact that the proposers of respondent No. 1 in Exts. H and H/1 were prominent members of the Shoshit Dal, namely, Shri Balwant Nath Singh (R.W. 1), in one case, and Shri Ramchandra Yadav, who, as the evidence shows, was the Treasurer of that party in the other. Both these proposers of respondent No. 1 were ministers in

the Shoshit Dal Government (*see* R.W. 1 and P.W. 6 respectively). Upon a consideration of the relevant materials on the record, I have come to the conclusion that respondent No. 1 was not merely enrolled as a member of the Shoshit Dal, but was also the official candidate of that party in the impugned election.

30. The only other material to which reference need be made in this connection is a newspaper report (Ext. 5) showing that respondent No. 1 had filed his nomination as an independent candidate. But it is difficult to act upon a newspaper report. Besides, that is not inconsistent with the other materials on the record to which I have referred in support of my finding that respondent No. 1 was formally adopted as the official candidate of the Shoshit Dal on the 21st March, 1968.

31. The real question at controversy between the parties is not whether respondent No. 1 was the candidate of the Shoshit Dal in the impugned election, but that was the ground which had weighed with that political party in adopting him as its official candidate. According to the case set up by the petitioner, what had weighed with the members of the Shoshit Dal was the petitioner's purse, whereas according to respondent No. 1, his selection as such was made in consideration of his social and political status, besides his education and young age. According to R.W. 2, such step was taken on the ground that the idea of his party was to organise the Shoshit Dal on All India basis and it was thought that respondent No. 1, who was formerly a member of the Bengal Legislative Assembly, might be of help in that endeavour. The original idea of the party, however, did not materialise because the Shoshit Dal Government was voted out of office on 18th March 1968.

32. In commending the petitioner's case on this point for my acceptance, Mr. Singh has put forward the following arguments. The Shoshit Dal was party of defectors. Respondent No. 1 was "a new born babe" in the Dal, having become its member in February, 1968, and accepted as that party's candidate in the very next month. The evidence of R.W. 5 shows that he had been lurking around the office of the Shoshit Dal located in the M.L.A. Flat occupied by Mahanth Sukhdeo Giri, one of the Ministers of the Shoshit Dal Government; the purpose obviously was to duck about for votes and support for his candidature. His constant visits to the Party's office must have enabled him to assess his position, as also to realise what sort of man he had to deal with; besides the evidence of R.W. 1 and 2 indicate that the leaders of the Dal had very little knowledge about his social and political activities. The financial position of the Shoshit Dal was very meagre since the evidence of R.W. 2 indicates that his party's Bank balance had remained stationary at the modest figure of Rs. 160. As against this respondent No. 1 was a millionaire or at least in possession of considerable monetary resources. The party's bosses must have thought of seizing the opportunity of utilising the monetary resources of respondent No. 1 to their advantage. Respondent No. 1 in his turn has shown himself by his answers in the witness box to be not merely an intelligent, but also a shrewd person, in as much as at several stages during his cross-examination he had eluded the cross-examiner by anticipating the questions which were going to be put to him and modulating his answers in order to baulk the cross-examination. He has sought to make a wonderful distinction between 'defection' and 'deviation' on the part of his party-men. Such a shrewd man was not likely to make any leap in the dark or to leave his political future to chances. Before deciding to contest the election as the candidate of the Shoshit Dal, he must have obtained a firm commitment of support from its members and this must have been secured by P.W. 7, who has said the reason why he was opposed to the candidature of respondent No. 1 was not that he was not a non-resident of this State, but that "he was introducing monetary considerations for securing our support". These arguments, however, must be pitted against certain other circumstances about which there is ample indication in the record. As I have already indicated, the Shoshit Dal was brought into existence with the avowed object of seizing the political power. Its rise to glory was meteoric, inasmuch as it succeeded in forming the Government in less than four months of its birth. This meteoric rise must have attracted the notice and admiration of young persons in politics with aspirations for the future. At about the relevant time, respondent No. 1 had lost his membership of the Bengal Legislative Assembly and he was confronted with a cessation of his political activities in West Bengal on account of the introduction of the President's rule there. As an ambitious young politician, he may well have turned his eyes upon the political situation in Bihar where new opportunities seemed to have come into existence in the wake of phenomenal rise of the Shoshit Dal to power. It would not be strange if in these circumstances respondent No. 1 identified himself with the Shoshit Dal and staked his future political career, by associating himself with that Dal. The Shoshit Dal in its turn seems to have been anxious



for more and more support for itself. Admittedly, it had admitted a journalist of repute like Shri Shambhu Nath Jha (P.W. 2) into its fold and had conferred upon him the status of a cabinet minister, although he was not even a member of the Bihar Legislature at the relevant time. Further, as the evidence shows, almost every legislator belonging to the Shoshit Dal, as also those who had extended their support to it, had already become ministers of the Government of their party. For setting up a candidate for the Rajya Sabha election, the Shoshit Dal had to make a suitable selection from outside its immediate folds. Even according to the evidence of P.W. 3, apart from respondent No. 1, there were two or three candidates who were anxious for the support of the Shoshit Dal Legislators. There is no evidence on the side of the petitioner as to who those two or three other candidates were. But according to respondent No. 1, one such candidate was Shri Shambhu Nath Jha (P.W. 2) himself, though P.W. 2 has denied this fact. However, it does not appear that the Shoshit Dal had set up any other candidate in the election to the Rajya Sabha, though at the relevant time it was certainly in a position to set up a candidate of its own in the impugned election. It is, therefore, non improbable that the Shoshit Dal had selected respondent No. 1 as its official candidate in the impugned election in pursuance of its aims and policies or to consolidate its position in the political life of Bihar. Going by probabilities alone, therefore, it cannot be held confidently that what had weighed with the Shoshit Dal in choosing respondent No. 1 as its official candidate in the election was his purse.

33. Be that it may, concluded finding on a charge of corrupt practice of bribery attributed to a successful candidate cannot be arrived at on a consideration of the probabilities of the case. It has been repeatedly held by the Supreme Court that a charge of corrupt practice is in the nature of a criminal charge and must be established by cogent and reliable evidence without any reasonable doubt relating thereto.

It is hardly necessary to emphasise that the law looks upon the electoral offence of bribery with the utmost disfavour. Under the Act of 1951, a successful candidate against whom such a charge of corrupt practice is brought home, not only loses his seat in the legislature, but also incurs a disqualification for a period of six years under section 8A of that Act. In the Indian Penal Code also, a set of offences relating to election has been incorporated in Chapter IX A. Section 171 B provides that an offence of bribery is committed both when a person gives a gratification to another with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right and when any person accepts for himself or for any other person any gratification by way of reward for exercising any such electoral right. In other words, both the giving and accepting of illegal gratification is punishable under the Indian Penal Code. About the quality of mercy, Shakespeare wrote in his Merchant of Venice:

It is twice bless'd;

It blesseth him that gives, and him  
that takes

So, as to the vice of the electoral offence of bribery, it may be said:

It is twice damn'd

It damns him that gives and  
him that takes.

Further, section 99 of the Act of 1951 imposes a duty upon the High Court to name all person or persons who may be proved at the trial of an election petition to have been guilty of corrupt practice and to indicate the nature of that corrupt practice. I have emphasised upon the gravity of the charge of corrupt practice attributed to respondent No. 1 with a view to indicate that it cannot be proved except by cogent and reliable evidence, or evidence as to the truth of which there is no scope for entertaining the slightest doubt. The question is, has the petitioner adduced evidence of such calibre in proof of his case on corrupt practice.

34. I will now turn to the particulars of corrupt practice as detailed in Annexures 'B', 'C' and 'D' of the election petition. In all, a dozen incidents involving the corrupt practice of bribery within the meaning of section 123(1) of the Act of 1951 are alleged to have taken place which, in chronological order, were as follows:

- (i) On 19th March 1968, at the M.L.A. Flat (Gardiner Road), Shri Munshi Hansda, M.L.A. made offer of money and promised to pay money to Shri Jatha Kisku, M.L.A. for securing the latter's vote with first preference in favour of respondent No. 1 (Annexure: C).

- (ii) On 23rd March 1968, at the M.L.A. Flat, similar offer and promise to pay money for the same purpose were made by respondent No. 1 and Sri Balwant Nath Singh (R. W. 1) to Sri Ragnunandan Prasad: (Annexure C).
- (iii) On 26th March 1968, at No. 1 Strand Road, respondent No. 1 and R.W. 2 made offer of money and promised to pay money to Sri Mahabir Paswan (P.W. 6) for the same purpose: (Annexure C).
- (iv) On 26th March 1968, respondents Nos. 1 and 8 conferred together at the Republic Hotel, Patna, with Sri Brigmohan Singh (P.W. 5) and Sri Saheb Prasad Shastri, a political worker, and appealed to them to secure some votes with first and second preferences only in favour of either of those two respondents, and respondent No. 1 assured them that regardless of the fact whether he got the first or the second preference, the voters would be paid Rs. 4,000 each by respondent No. 8 who had kept ready cash in hand for payment: (Annexure D).
- (v) On 27th March 1968, at the M.L.A. Flat, respondent No. 1 and R.W. 2 made offer of money and promised to pay money to Sri Janmejay Nath Choubey for securing the latter's vote with first preference in favour of respondent No. 1. (Annexure C):
- (vi) On 27th March 1968 at the M.L.A. Flat, Sri Bhagat Murmu offered and promised to pay money to Sri Jetha Kisku for the same purpose. (Annexure C);
- (vii) & (viii) On 27th March 1968 at 1, King George Avenue, the residence of Mahanth Ram Kishore Das, M.L.A., respondent No. 1 offered and promised to pay money to Sri Satya Narain Sharma (P.W. 7) and to Sri Jaswant Kumar Choudhary (P.W. 4) for the same purpose: (Annexure C);
- (ix) On 27th March 1968 at 1, King George Avenue, R.W. 1 offered and promised to pay money to P.W. 4 for the same purpose: (Annexure C);
- (x) On 27th March 1968, a dinner was organised at 1, King George Avenue in the name of Mahanth Ram Kishore Das, but at the cost of respondent No. 1, for meeting several M.L.As. and their friends. As the guests were arriving, Mahanth Ram Kishore Das went on introducing respondent No. 1 and his election agent, Shri Brajeshwar Mullick, to them, and Mahanth Ram Kishore Das and Sri Balwant Nath Singh (R.W. 1) alongwith respondent No. 1 and his election agent, canvassed for a firm commitment on the part of the invitee-legislators to cast votes in favour of respondent No. 1, Four M.L.As., Sarvshri S. N. Abdulla, Ahmad Karim, Mahabir Prasad Yadav and Dr. B. P. Jawahar held a conference with respondent No. 1 and R.W. 1 in a separate room for some time and thereafter there was some talk beyond hearing in divided groups between some of the aforesaid persons and the other assembled guests. After the dinner was over, payments were made in currency notes kept in separate envelopes which respondent No. 1 brought out in a bundle from a small brief-case attache, which he was holding with himself, to 20 M.L.As. mentioned in paragraph 3 of Annexure 'B'. Respondent No. 1 took out the envelopes and made them over one by one to Shri Balwant Nath Singh (R.W. 1), who in his turn passed them on to the persons named in paragraph 3. Lastly, respondent No. 1 handed over one envelope containing currency notes to Sri Balwant Nath Singh (R.W. 1) and another similar envelope to Mahanth Ram Kishore Das. After that, two other persons, Sri Paul Hansda and Sri Bhagat Murmu asked for being entrusted with Rs. 4,000 each to enable them to negotiate for two more votes for respondent No. 1 during the night, saying that the said two voters were not agreeable to accept the money directly from respondent No. 1 or R.W. 1. Sri Paul Hansda and Sri Bhagat Murmu assured respondent No. 1 that the ballots casts in favour of respondent No. 1 on the basis of their negotiation would bear a distinct ink mark which they would point out to respondent No. 1 on the following morning. There upon respondent

No. 1 handed over one envelope with currency notes to Sri Paul Hansda and Sri Bhagat Murmu each. However, two of the invitee-legislators, Sri Satya Narayan Sharma (P.W. 7) and Sri Jaswant Kumar Choudhary (P.W. 4), who had also been offered similar bribe by respondent No. 1 at the said dinner meeting, refused to accept the money and expressed their displeasure and annoyance at the suggestion of Mahanth Ram Kishore Das and Sri Balwant Nath Singh (R.W. 1) to vote for respondent No. 1 on acceptance of gratification, and on the contrary, they protested at having been lured into payments by respondent No. 1 under the pretext of an invitation extended for dinner: (Annexure B);

(xi) On 27th March 1968, at about 10 P.M. respondent No. 8 paid Rs. 5,000 to Sri Tarni Prasad Singh, M.L.A., at his residence in Rajendranagar and Rs. 5,000 to Sri Bhula Rai, M.L.A. at the M.L.A. Flat at about 11 p.m. (Annexure D); and,

(xii) On 28th March 1968 at the Bihar Assembly Buildings, Sri Bhagat Murmu offered and promised to pay money to Sri Jetha Kisku, M.L.A., for securing his vote of first preference in favour of respondent No. 1: (Annexure C).

35. With regard to five of the aforesaid incidents, namely, Nos. (i), (ii) (v), (vi) and (xi), no evidence has been adduced by the petitioner at all. Therefore, as the evidence stands, all the alleged illegal acts of respondent No. 1 and others were committed on the day of poll and two days preceding it.

36. Incident No. (iii) has been sought to be proved by the evidence of Shri Mahabir Paswan (P.W. 6). His version is that in the evening of 26th March, 1968, R.Ws. 1 and 5 met him at his residence at No. 1, Strand Road, and in the presence of R.W. 5, R.W. 1 told him, to quote his own words, that:

"I should vote for Shri Poddar. He also told me that he would make some present to me for this purpose. I asked Balwant Babu to clarify what he meant by 'Sewa'. Thereupon, Balwant Babu told me, commensurate with my position, he would pay me a handsome amount of money. I told Balwant Nath Singh that it was highly improper for him to have talked to me in this manner."

P.W. 6 was a State Minister in the Mahamaya ministry. In the general election of 1967, he had been elected to Bihar Legislative Assembly as a candidate of the B.K.D. Like the petitioner, he left the B.K.D. and joined the Janta Party, of which the leader was Shri Kamakhya Narain Singh. Evidently, therefore, his political attachment with the petitioner or with Shri Kamakhya Narain Singh was very great. It is to be remembered that it was at the initiative of the Shoshit Dal that both P.W. 6 and Shri Kamakhya Narain Singh had lost their ministry. His own evidence shows that he had voted in favour of the no-confidence motion against the Shoshit Dal Government, of which R.W. 1 was one of the ministers. The intensity of bad blood between his political party and the Shoshit Dal can well be imagined from his own statement which reads:

"We had put up sufficient opposition to the Shoshit Dal Government and had ultimately succeeded in toppling it. The Shoshit Dal Government had set up an Inquiry Commission for investigation of charges of corruption against Kamakhya Narain Singh, the leader of the Janta Party."

In the background of such bitterness, it appears to me highly incredible that respondent No. 1 would have been so foolish as to indulge in such an act of corrupt practice at the very door of an important member of the party of his rival who was the official candidate of the B.K.D. It is also too much to believe that R.W. 1 had lost all sense of decency so as to indulge in such a corrupt act within a few days of having been voted out of office at the vote of P.W. 6 and others in the no-confidence motion. P.W. 6 has said that he had been refrained from taking any action against R.Ws. 1 and 5 since they were his friends, although he knew that offer and acceptance of bribe are criminal offences. But if R.W. 1 would have been such a friend of his then it was expected that he would have shown some kindness for him at the time of casting his vote in the no-confidence motion against the Shoshit Dal Government. Since P.W. 6 did not show any kindness for him at that time, it is difficult to believe that he would have shown

any consideration at the subsequent stage, as suggested by him, if R.W. 1 would have really indulged in such a criminal act prejudicial to the official candidate of the B.K.D. P.W. 6 has not suggested that R.W. 1 had approached him to spare his ministry by not voting in favour of the no-confidence motion against the Shoshit Dal Government; rather in view of the bitterness of political feelings then prevailing, it is unthinkable that R.W. 1 could have approached P.W. 6 with any such request. If R.W. 1 did not approach P.W. 6 for his own sake, it is highly improbable that he had thought of approaching him for the sake of respondent No. 1 only a few days later, as described by P.W. 6. How vitally P.W. 6 is interested in the petitioner's case in this Court is clear from his own statements:

"I did feel sorry at the defeat of the petitioner in this election. I had advised him to file an election petition. I do want that he should win this election petition."

It seems to me that it will be highly unsafe to rely upon the uncorroborated testimony of such a partisan and highly interested witness. He has deposed that on 28th March, 1968, he had met the petitioner at his residence on the S. P. Verma Road after the declaration of the results of the election. But he does not say that he had any talk with the petitioner about the alleged incident of the 26th March, 1968. The petitioner also has not deposed in this case, which he would not have failed to do at least to corroborate P.W. 6, if the latter would have told him about the alleged incident of 26th March, 1968, when they had met on 28th March, 1968 after the declaration of the results. Evidently, P.W. 6 had told him nothing about the incident until then, and so its truth is greatly in doubt. I am, therefore, of the opinion that the evidence of P.W. 6 is wholly insufficient to prove the petitioner's case relating to incident No. (iii) referred to above.

37. In order to prove incident No. (iv) which also is alleged to have taken place on 26th March, 1968, the petitioner has relied upon the testimony of Shri Brijmohan Singh (P.W. 5). The version of P.W. 5 is that on that day he was introduced to respondent No. 1 by R.W. 1 at the Republic Hotel where respondent No. 8 and Shri Saheb Prasad Shastri were also present. He had talks with respondent No. 1 about the prospects of his election to the Rajya Sabha. In course of his talks respondent No. 1 had requested him to arrange for some votes for him, saying that he was prepared to pay Rs. 4,000/- for each voter who would vote for him, but, says P.W. 5, he declined to help respondent No. 1 in this matter. It will be noticed that the version of P.W. 5 is at variance with the particulars set out in Annexure "D" of the election petition, according to which respondent Nos. 1 and 8 had jointly appealed P.W. 5 and to Shri Saheb Prasad Shastri to secure some votes with first or second preference only in favour of either of those two respondents. Further, according to Annexure "D", it was respondent No. 8, and not respondent No. 1, who had kept cash money ready in hand for payment to voters regardless of the fact whether respondent No. 1 got the first or the second preference. In his evidence P.W. 5 has exonerated respondent No. 8 of the charge of corrupt practice and has merely spoken about his presence in the company of respondent No. 1 at the Republic Hotel. The story of P.W. 5 that respondent No. 1 was prepared to pay Rs. 4000/- to each voter who would vote for him is fit to be thrown out on this ground alone. Further, the evidence of P.W. 5 shows that he had political alliance with the Congress Party. He had contested the general election of 1967 as a Congress candidate, but he was unsuccessful, and then he was nominated as a candidate for election to the Bihar Legislative Council as a Congress nominee from the Bihar Legislative Assembly. The evidence shows that in that Council election also, the Shoshit Dal had set up a candidate of its own. The Congress Party had candidates of its own in the election to the Rajya Sabha. It sounds highly improbable that in this context R.W. 1 would have thought of bringing P.W. 5 in touch with respondent No. 1 for the purpose of securing votes for him in his election. It is all the more improbable that respondent No. 1 would have talked with P.W. 5 in the aforesaid manner, particularly when, as the evidence of P.W. 5 himself shows, there was no prior acquaintance between the two. P.W. 5 has stated that prior to meeting him at the Republic Hotel on 26th March, 1968, he had not met respondent No. 1. He had not met him thereafter also. It appears to me unbelievable that at his very first meeting with a man of a rival party and a strange, respondent No. 1 could have thought of talking with him about paying bribe to voters; rather respondent No. 1, if at all he met P.W. 5 would have known that as a Congress man, P.W. 5 was not expected to extend any support to him the election, in which the Congress Party had set up three candidates of its own. The unreliable character of the evidence of P.W. 5 is also apparent from the fact that although he claims



to have spoken to the petitioner on 27th March, 1968 about the alleged talks with respondent No. 1 on the previous evening, the petitioner did not think it worthwhile to cite him as a witness in this case until the 20th March, 1969, when he applied for issue of Desti summons in his name. In this connection I may also point out that the records of the Republic Hotel (Exts. 2 and 2/1) do not show that respondent No. 1 had stayed in that Hotel on 26th March, 1968. There is an entry in Ext. 2/1 dated 25th March, 1968, but it does not appear to be reliable, as there is some overwriting on it and it has not been signed by the alleged visitor. This is another circumstance to indicate that P.W. 5 could not have met respondent No. 1 at the Republic Hotel on 26th March, 1968. It appears that there is also some element of partisanship in him. He had been elected to the Bihar Legislative Assembly in the general election of 1962 as a candidate of the Swantra Party, of which the petitioner was also formerly a member. I, therefore, consider it highly unsafe to act upon the uncorroborated testimony of P.W. 5 and I hold that the petitioner has failed to prove the alleged incident of 26th March, 1968 at the Republic Hotel. Thus, neither of the two incidents of the 26th March, 1968, involving corrupt practice of bribery, namely, incident Nos. (iii) and (iv) has been proved.

38. That takes us to the most serious part of the petitioner's case, namely, that relating to incidents Nos. (vii), (viii), (ix) and (x), all of which are alleged to have taken place on 27th March, 1968 at No. 1, King George Avenue, the residence of Mahanth Ram Kishore Das. These incidents are sought to be proved by three of the most important witnesses of the petitioner, Sarvashri Shambhu Nain Jha (P.W. 2), Jaswant Kumar Choudhary (P.W. 4) and Satya Narain Sharma (P.W. 7). P.W. 2 is a reputed journalist and Editor incharge of the Searchlight, a daily newspaper of Patna. He was not a member of the legislature at the relevant time, but he was invited by Sri B. P. Mandal to join his ministry and he was a minister of the cabinet rank in the Shoshit Dal Government from 10th February, 1968 to 22nd March, 1968. He was, however, a minister without portfolio. The version of P.W. 2 is that he had attended a dinner meeting of the Shoshit Dal legislators which was held at the residence of Mahanth Ram Kishore Das on 27th March, 1968. On that occasion, he saw that money was distributed to the legislators to persuade the voters to cast their votes in favour of respondent No. 1 in the election which was to be held on the following day. Giving some details of the incident, he has deposed:

"Money was handed over in envelopes and some of the recipients had opened the envelopes and counted money they contained. Among those who counted the money in my presence on that occasion I recall the names of Sri Jagdeo Prasad, Mahanth Sukhdeo Giri, Ram Nagaina Singh, Ahmed Karim, and Satish Prasad Singh. Among others who had received the envelopes I recall the names of Ramchandra Yadav, Mahabir Prasad Yadav, Mahabir Prasad, Ramasis Singh, Ramchandra Prasad, Dr. B. P. Jawahar, Majhla Majhi, Simon Tigga, Paul, Hansda, Munshi Hansda, Bhagat Murmu, Kesho Prasad Singh, S. M. Abdulla, Sohan Lal Jain and Nath Mal Dokania. On that date all these were the sitting members of the Bihar Legislative Assembly. The money was brought by one who, I was told, was a cashier of Sri Poddar. Mr. Balwant Nath Singh was present there. The money was taken by Sri Poddar and personally handed over by him to the various persons whom I have named above. Mahanth Ram Kishore Das was also present there. Balwant Nath Singh was also an M.L.A. and a former state Minister of Government of Bihar. I cannot recall the name of any other person who may have been present on that occasion. Sri Shatrughan Sahi and Sri Satya Narain Sharma, both of whom were ministers, had objected to the payment."

In answer to a Court question as to whether he could get any idea as to how much money had passed in this manner, P.W. 2 said:

"Mr. Poddar was prepared to pay up two lakhs of rupees, but I learnt that the amount involved was about one and half lakhs of rupees."

His further evidence is that in regard to the aforesaid incident, he had addressed a communication (Ext. 1) to the Home Secretary of the Government of India on the following day.

39. P.W. 4 was a member of the Swatantra Party and an elected member of the Bihar Legislative Assembly at the material time. His version is that he had been invited to a dinner party which was held at the residence of Mahanth Ram Kishore Das in the night of the 27th March, 1968. About 30 to 40 persons were present at the residence of the Mahanth inclusive of servants and bearers. There Kumar Balwant Singh (R.W. 1), who is his friend, introduced him to respondent No. 1. The dinner was over at about 10 or 10-15 p.m. and thereafter several people were gossiping here and there. At that stage, Mahanth Ram Kishore Das, the host, and Kumar Balwant Singh (R.W. 1) were seen taking the guests who were members of the Legislative Assembly in batches of two or three into a side-room. R.W. 1 took him also into that room. What he saw and experienced in that room has been described by him in the following words:—

“There I saw Sri Rajendra Kumar Poddar handing over envelopes to Kumar Balwant Singh who was making them over to the M.L.As. saying that this was for taking Pan etc., so that they might vote for Sri Rajendra Kumar Poddar. Among the recipients, I saw some counting money which was in the envelopes handed over to them. A similar offer of bribe was made to me, but I did not accept the money. I expressed my anger to Kumar Balwant Singh, and after using abusive words towards him, I left that room saying that I was not so mean as he thought me to be. In the room, the persons whom I had seen counting money from the envelopes were, Sri Satish Prasad Singh, Sri Ahmad Karim and Sri Ram Nagina Singh, all M.L.As.”

P.W. 4, however, took no action of any kind in this connection. He did not raise any issue about it at the sitting of the Assembly on 28th March, 1968, nor he made any complaint about this matter to any authority at any time.

40. P.W. 7 was elected to the Bihar Legislative Assembly in the general election of 1967 as a candidate of the P.S.P., one of the constituent units of the United Front Government. He was one of these who had withdrawn their support to the Mahamaya ministry and joined the Shoshit Dal after defecting from the P.S.P. When the Shoshit Dal Government came into power, he became a minister. He remained a member of the Shoshit Dal until December, 1968, but did not renew his membership in January, 1969. He has given the account of certain events which preceded the fateful day 27th March, 1968. The no-confidence motion against the Shoshit Dal Government was tabled on the 13th March, 1968. On that day there was some discussion amongst the members of the Shoshit Dal in connection with supporting the candidate in the Rajya Sabha election. A proposal was put forward that such candidate should be supported by the members of the Dal who contributed money to its fund. But some other members of the Dal, including P.W. 7, opposed this suggestion. One of the candidates in the election was respondent No. 1 and he had approached the legislators of the Shoshit Dal for their support of his candidature. Some of the Shoshit Dal legislators had pleaded for the party's support to his candidature. Ultimately, respondent No. 1 succeeded in enlisting the support of the legislators of the Shoshit Dal, several of whom had decided to support his candidature in consideration of monetary payment. The offer and acceptance of bribe money took place at the residence of Mahanth Ram Kishore Das in the evening preceding the day of election. All those who had gone to the Mahanth's residence on that evening were legislators, besides, P.W. 2, R.W. 1 and a few others. Before the dinner was held, respondent No. 1 had suggested that all the legislators should assemble at one place and, on that occasion, he would make payments to them as far as he could. After the dinner was over, what happened according to P.W. 7 was this. The legislators were going in batches of two or three into a side-room, adjacent to the main hall, where all the guests had assembled, and coming back with envelopes containing money. Among such legislators were Paul Hansda, Munshi Hansda, Bhagat Murmu, N.E. Horo, Mahanth Sukhdeo Giri and Ram Nagina Singh. In the meantime R.Ws. 1 and 5 requested P.W. 7 also to go into that room for the same purpose, saying that it had been decided that every legislator would be paid Rs. 4,000/- in consideration of supporting the candidature of respondent No. 1. After that R.W. 1 stretched out towards him a long envelope saying that it contained Rs. 4,000/- which he was paying to him on behalf of respondent No. 1 and added that he should also support the candidature of respondent No. 1 like others. But P.W. 7 did not accept the money and left the room telling respondent No. 1 that he could not be so mean as to sell his conscience for monetary considerations. R.Ws. 1 and 2 did not, however, leave P.W. 7 alone and about two hours after P.W. 7 had left the residence of the Mahanth, both of them along



with three or five other persons approached him at his residence. These people told him that when the consensus of opinion in his party was to support the candidature of respondent No. 1, then he should also support him, but P.W. 7 remained firm and told them that left to himself, he might have supported the candidature of respondent No. 1, but he was repelled by the manner in which he had been approached for the purpose. Unlike P.W. 4 he claims to have made a written report about the incident to the authorities and also to have raised the issue at subsequent meetings of his party, but he did not raise any question about it in the Assembly though it continued to be in session for about three months thereafter.

41. The petitioner also filed an affidavit sworn by Shri S. M. Abdullah on the 26th April, 1969, to the effect that there was a meeting of the Shoshit Dal at the residence of Mahanth Ram Kishore Das on the 27th March, 1968, and there respondent No. 1 had offered a sum of Rs. 4,000/- to him, but having protested against such barter of votes, he had rejected the offer and made over the amount to Shri Jagdeo Prasad, the Secretary of the party, in presence of respondent No. 1. This affidavit was filed along with a petition for summoning Shri S. M. Abdullah for his evidence at the trial. But no such incident finds mention in any of the Annexures to the election petition. The name of Shri Abdullah figures prominently in Annexure 'B' but for reasons best known to himself, the petitioner did not include his name either in his original list of witnesses or in his second list of the 20th March, 1969. He filed this petition at a late stage after six out of his nine witnesses had been examined at the trial. I did not feel persuaded to allow such a belated petition for issuing summons to Shri Abdullah. In the circumstances, the affidavit of Shri Abdullah can be of no avail. It is quite clear from the provisions of rule 1 of Order 19 of the Code of Civil Procedure that the affidavit of a witness can be read as evidence at the hearing only if the Court permits such a procedure, for sufficient reason, on such condition as it thinks reasonable. No such order has been recorded in this case. Besides, it would be highly unreasonable to make use of such an affidavit of which the statements have not been tested by cross-examination of the deponent. I, therefore, leave this affidavit totally out of consideration, and proceed to deal with the evidence of P.Ws. 2, 4 and 7.

42. I have great respect for the eminent position of each of these three witnesses in the public life of Bihar, but this alone cannot relieve me of the duty of scrutinizing their evidence with care and caution. It is an oft saying that in politics, as in war, everything is fair, and that, in my opinion, casts a duty upon the Court to be astute lest it might mistake the wood for the tree. A warning to this effect was sounded by the Supreme Court in *Jagannath and another Versus V. Narayan Uttamrao Deshmukh and another*, Civil Appeal No. 159 of 1968, decided on the 6th September, 1968. There it has been said that the Court must be satisfied that the evidence on the point of corrupt practice stands all scrutiny and does not bear the stings of having been manipulated, and further that in elections, as in war, everything seems fair and the Court has to be astute all the time to see that there had not been foul practice.

43. While dealing with the evidence of P.Ws. 2, 4 and 7, one cannot miss to note that each one of them had reasons of their own for not looking upon the success of respondent No. 1 at the election with favour. The evidence of P.W. 3 is clear that the Swatantra Party had decided to support the candidature of the petitioner. So far as P.W. 4 is concerned, I have no doubt in my mind that no reliance can safely be placed upon his testimony. P.W. 4 must have had ample reasons for disappointment at the results of the election at which the candidate of his party, namely, the petitioner had suffered a defeat. He has himself stated that the Swatantra Party had no alliance of any kind with the Shoshit Dal and he was in opposition of the Shoshit Dal Government and had exercised his vote in the no-confidence motion against that Government. Besides, I have grave doubts about his presence at the Mahanth's place on the night in question. In Ext. 1, as will appear hereafter, the occasion has been described as a meeting of the Shoshit Dal legislators. It is hard to believe that any invitation could have been extended to P.W. 4, a man of the rival camp, to such a meeting or to a function or gathering, supposed to have been organised on behalf of respondent No. 1 with the illegal purpose of buying votes by making monetary payments to the electors. Inviting a man of the rival camp on an occasion like this would have amounted to acting against the very interests of respondent No. 1. In my opinion, he could never have been at the Mahanth's residence on the eve of the

poli. P.W. 4 has nowhere suggested that R.W. 1 or R.W. 5 had made any proposal to him on any previous occasion that he should lend his support to the candidature of respondent No. 1 or accept any money from him for exercising his franchise in his favour in preference to the candidate of his own party. It is, therefore, highly incredible that all on a sudden he was not only invited at the alleged dinner, but also offered money in an envelope so that he might vote for respondent No. 1. He also could not possibly have gone there as an uninvited guest. The fact that there is no truth in his story is clear from the circumstance that although he claims to have seen R.Ws. 1 and 5 committing such grave electoral offences with his own eyes, he made no complaint about it to any authority or filed any petition anywhere. With regard to incidents Nos. (viii) and (ix), his evidence stands alone with nothing to corroborate it. Talking about incident No. (x) he has betrayed his rivalry for the Shoshit Dal by roping in Satish Prasad Singh (R.W. 2), although the name of R.W. 2 does not find place in Annexure 'B'. I, therefore, discard his evidence altogether.

44. Before dealing with the evidence of P.Ws. 2 and 7, I ought to clear up a matter about which there is a controversy between the parties. I have already indicated that an election to the Bihar Legislative Council from the Assembly Constituency was going on side by side with the impugned election. The date of poll in the Council election was 29th March, 1968. One of the candidates in that election was Shri Shambhu Nath Jha (P.W. 2). The case of respondent No. 1 is that P.W. 2 was trying that the Shoshit Dal should accept him as its official candidate in the council election, but the Shoshit Dal did not accept his request and set up another candidate of its own in that election. So out of annoyance against the Shoshit Dal, P.W. 2 contested the Council election as an independent candidate, but he was able to secure only one vote and thus suffered a miserable defeat. According to respondent No. 1's case, P.W. 2 was also a candidate for his party's ticket in the impugned election, but this has been denied by P.W. 2 and I do not consider it necessary to enter into this controversy. P.W. 2 has, however, admitted that he was a candidate for election to the Council, as being a minister at that time, he wanted to become a member of the legislature. But the claim of P.W. 2 is that he had contested the Council election as a Shoshit Dal candidate. If P.W. 2 was a candidate of the Shoshit Dal in the Council election, then he could have no cause for grievance against the members of the Dal, even if he lost that election. But the question to be decided is whether the claim of P.W. 2 that he had contested the Council election as a Shoshit Dal candidate is true. Of course, P.W. 2 was a cabinet minister in the Shoshit Dal Government until its fall. But the evidence on behalf of respondent No. 1 shows that the Shoshit Dal had turned down the request of P.W. 2 for the ticket of his party for the Council election and had adopted one Shri Bhagwan Singh as its candidate in preference to P.W. 2. Speaking about this matter, R.W. 2 gave three reasons for the decision of their party to decline to give its ticket to P.W. 2, namely, (i) P.W. 2 was admitted in the cabinet without the concurrence of the members of the party, (ii) He was not a political figure before, and, (iii) Shri Bhagwan Singh had produced certain papers in the party meeting which indicated that several cases had been instituted against P.W. 2. It is not necessary to investigate into the correctness or otherwise of all these reasons. But it seems to me, as I shall presently shown, that R.W. 2 had truly stated that P.W. 2 was not the candidate of his party in the Council election. A curious feature of the ministership of P.W. 2 was that he had remained a minister without portfolio all the while. Evidently, his admission into the Shoshit Dal cabinet did not evoke any enthusiasm amongst the Shoshit Dal legislators, almost all the whom were members of the cabinet. It is not at all surprising, therefore that the consensus of opinion in the Shoshit Dal was against the candidature of P.W. 2 in the Council election. In this connection the evidence of P.W. 7 is significant. He stated that P.W. 2 had approached the Shoshit Dal for its support in the election to the Vidhan Parishad and that the Shoshit Dal legislators had decided in a party meeting to vote for him. But he also admitted that P.W. 2 was able to secure only one vote, and that really shows that the Shoshit Dal legislators had not extended their support to P.W. 2 in his election at all, because at the relevant time their strength was 27, and had it been true that they had decided to vote for him, then he would not have secured only one vote. I, therefore, accept the evidence of R.W. 1 that the Shoshit Dal had decided not to extend its support to P.W. 2 but to adopt Shri Bhagwan Singh as its candidate. In cross-examination he stated that the decision to set up Shri Bhagwan Singh as his party's candidate for the Council was taken at a party meeting held on the 26th March, 1968. It is

obvious that the evidence of R.W. 2 to this effect also is correct, since, P.W. 7 also has spoken about such a party meeting. But his evidence with regard to the decision arrived at in that meeting cannot be preferred to the evidence of R.W. 2, having regard to the results of the voting which took place on 29th March, 1968. So the true fact is, as stated by R.W. 2 that the Shoshit Dal legislators had finally decided on 26th March, 1968 not to support the candidature of P.W. 2. Even P.W. 7 made the following statement:

"I had not supported the candidature of Shri Shambhu Nath Jha, nor had I helped him in the election to the Council".

Had the decision of his party been to vote for P.W. 2, there could have been no reason for P.W. 7 not to support his candidature. P.W. 7 has not indicated any other reason for not supporting the candidature of P.W. 2. Rather he has admitted that Shri Bhagwan Singh was a candidate for the Council seat on behalf of the Shoshit Dal. It is difficult to believe, as P.W. 7 suggests, that both P.W. 2 and Bhagwan Singh were candidates of the Shoshit Dal in the Council election. He has himself admitted that Shri Bhagwan Singh had secured 16 or 18 votes as against one vote secured by P.W. 2. This could not have been the voting results if both these candidates would have contested the election on behalf of the Shoshit Dal. I, therefore, hold that P.W. 2 has falsely claimed that he was the candidate of the Shoshit Dal in the Council election. The evidence of P.W. 2 shows that having joined the cabinet at the invitation of Shri B. P. Mandal, he was anxious to become a member of the legislature, a natural anxiety for a non-legislator minister. It follows that by the time that the impugned election took place, all hopes of P.W. 2 to get his party's support in his election had been shattered and he had become frustrated. It was really in this state of frustration and disappointment that he thought of addressing a communication like Ext. 1 to the Home Secretary of the Government of India, with a view to disgrace the Shoshit Dal, as a whole, since it had virtually disowned him.

45. In Ext. 1, P.W. 2 came out with a version that on 13th March, 1968, immediately after a cabinet meeting of the Shoshit Dal Government, a proposal was put forward by a minister (not named) that the seat for the Rajya Sabha should be sold to the highest bidder. P.W. 2 was taken aback by such a suggestion and two or three other ministers also objected to it, but an overwhelming majority supported the idea. His objections were ignored because he was not a member of the Assembly and he was told that he had no business to interfere in such affairs. Subsequently, the Shoshit Dal legislators, almost all of whom were Ministers, State Ministers and Deputy Ministers, met several times and openly declared at each of these meetings that each one of them would take Rs. 4,000/- before votes were cast for the Rajya Sabha seat. P.W. 2 was present in nearly all such meetings, P.W. 2 has further stated in Ext. 1:

"The last meeting of the Shoshit Dal legislators were held on March 27 at the residence of one of the ex-Minister. There I saw with my own eyes these ex-Ministers collecting their envelopes containing four thousand rupees each. I was present in that meeting as an Ex-Minister. The election was held on March 28 and Mr. Poddar got the votes of all 38 Shoshit Dal M.L.As."

Ext. I ends with the following feelings of P.W. 2:

"I think since our independence there has been no such instance in which bribes have been paid and accepted so openly in the meetings by legislators for exercising their votes. I think the matter should be fully investigated by the C.B.I. so that suitable action can be taken to prevent the recurrence of such shameful things in future. Something has to be done to save this country from corrupt politicians."

It is significant to observe that P.W. 2 did not think it worth-while to address any such communication to the Home Secretary prior to the 26th March, 1968 (the fateful date when the Shoshit Dal legislators had rejected his request to adopt him as its party candidate in the Council election), in spite of the fact that the Shoshit Dal legislators are supposed to have rebuked him on 13th March, 1968 and made repeated declarations that they would take Rs. 4,000/- each before casting their votes for the Rajya Sabha election and P.W. 2 was present in nearly all such meetings. Had there been any such declaration by the Shoshit Dal legislators, then P.W. 2, as a man of integrity and self-respect, would not have sought the support of the Shoshit Dal legislators, or stood in the Council election as a candidate of the Shoshit Dal. He would have disassociated himself entirely

with the activities of his party men from the very moment when his objections were ignored and he was told on 13th March, 1968 (before 18th March, 1968) that he had no business to interfere in such affairs as he was not a member of the Assembly. It is curious that in spite of such a rebuff alleged to have been given to him, he made no complaint to the Chief Minister, Shri B. P. Mandal, although it was at his invitation that he had condescended to join the Shoshit Dal cabinet. Neither in the election petition nor in evidence, there is any attack upon the integrity of Shri B. P. Mandal, personally. Even in Annexure 'B', his name does not find place. One would, therefore, have expected P.W. 2 to have complained to Shri B. P. Mandal about the alleged illegal propensities of his party men. From the circumstance that P.W. 2 did not speak to Shri B. P. Mandal about these matters and on the other hand, went on soliciting the support of the Shoshit Dal Legislators for his own election, and from the further circumstance that he did not think it fit to address any such communication to the Election Commission or to the Government of India, or to any other authority until 26th March, 1968, it would be legitimate to entertain considerable doubt as to the truth of the statements incorporated in Ext. 1 at a time when his political frustration was complete. In the circumstances, I am of the opinion that it would be extremely risky to act upon the evidence of P.W. 2, even though it may seem to have been partly corroborated by his own version in Ext. 1.

46. It should also be borne in mind that both P.Ws. 2 and 7 had parted political company with the Shoshit Dal before they figured as witnesses in the present trial. This means that they have deposed in this case when their frame of mind was one of thorough disgust for the political party to which they once belonged. In the case of P.W. 7, his disgust had risen to such a high pitch that when the Shoshit Dal had offered him its ticket for the mid-term election held in February, 1969, he thankfully returned it. Evidence of such angry or disgusted persons must naturally be viewed with great caution.

47. With regard to P.W. 7, it is abundantly clear that his approach to the question of giving his party's ticket to respondent No. 1 was parochial. In course of his cross-examination he himself stated:

"At no time, neither on 27th March, 1968, nor on any other occasion, I had agreed to support the candidature of Shri Rajendra Kumar Poddar.... I was anxious that the candidate who should win the election to the Rajya Sabha should be a member of the Shoshit Dal who was resident of Bihar."

Subsequently, P.W. 7, realised that he had unconsciously betrayed his parochial outlook in the matter, and so he modified his stand as follows:

"In the discussions of my political party I had opposed the candidature of Shri Rajendra Kumar Poddar not on the ground that he was a non-resident in this State, but on the ground that he was introducing monetary considerations for securing our support. I set up such opposition at each of my party discussions prior to 27th March, 1968. I put up my opposition against Shri Poddar on the above ground at two or three party meetings and always in a general way. The first time when I put up this opposition against Shri Poddar's candidature was on the date on which the no-confidence motion was tabled namely 13th March, 1968. Thereafter, I again put forward my opposition to Poddar's candidature two or four days subsequently in presence of Mahanth Sukhdeo Giri and others. Thereafter, for about a week I continuously opposed the candidature of Shri Poddar at my party meetings."

I will comment upon his evidence about the introduction of monetary considerations by respondent No. 1 a little later. But this much is quite clear that P.W. 7 was opposed to the candidature of respondent No. 1 from the very beginning as he was not a resident of Bihar, and despite his opposition when respondent No. 1 was adopted as the official candidate of his party and even succeeded in the election, P.W. 7 could not possibly have viewed his success except with disfavour. In the circumstances, it will not be unreasonable to think that the present proceeding has merely provided an opportunity to P.W. 7 to make a final bid to nullify the election of a candidate whom he never liked. His evidence cannot, therefore, be said to be above board.

48. It has already been found that the Shoshit Dal had decided on 21st March, 1968, that respondent No. 1 would be its official candidate in the impugned election.



Upon the evidence before the Court, there is nothing to show that there was any protest against this decision of the party, except perhaps by one or two Shoshit Dal legislators like P.W. 7 so a dinner meeting for the purpose described by P.Ws. 2, 4 and 7 was not at all necessary for securing the support of the whole body of the Shoshit Dal legislators for the election of their official candidate. For securing the support of one or two dissentients, the efforts of respondent No. 1 and his supporters like R.W. 1 would have been confined to approaching them individually at their residence or elsewhere. They did not stand in need of approaching P.W. 2 for this purpose at all, as he was not an elector. Nor he had any hold over the Shoshit Dal legislators. If they stood in need of tackling P.W. 7, then they would have approached him privately and not publicly in the manner alleged by him. The evidence of P.W. 7 shows that several of the candidates in the election did go to his residence for the purpose of soliciting his vote, and this had happened two or four days before the date of poll. Among such candidates, P.W. 7 was able to recall the names of the petitioner and respondent Nos. 7 and 17, and he says that he had informed respondent No. 7 that he would support his candidature as he wanted him to win the election. But P.W. 7, does not suggest that respondent No. 1 or any one else on his behalf had approached him like this for his personal support. On the contrary, he has clearly stated:

"Prior to meeting me at my residence in the night of 27th March, 1968 Shri Poddar or Shri Balwant Nath Singh had not approached me at my residence."

The reason must have been that P.W. 7 had made it abundantly clear that he would, under no circumstances, support the candidature of respondent No. 1, and that being aware of his stiff opposition, respondent No. 1 and his supporters had abandoned the idea of securing his support. In such circumstances, it is inconceivable that respondent No. 1 would have arranged a dinner or a dinner meeting of the type alleged by the petitioner for the purpose of securing the support of a few dissentients of the Shoshit Dal or that a dissentient like P.W. 7 would have attended or been invited to such a function. It is all the more inconceivable that a blunt offer of money would have been made to a strong dissentient like P.W. 7 at the last stage in the night of 27th March, 1968 and persisted in at mid-night, knowing full well that he was all along opposed to the candidature of respondent No. 1 as his party's candidate and had already promised his support to Shri A. P. Sharma, who was a Congress candidate, and that also without even making any prior attempt to solicit his vote by contacting him at his residence. It is also difficult to believe that those legislators of the Shoshit Dal, who were party to the decision of their party reached on 21st March, 1968, stood in need of being made an *ex-gratia* payment for the purpose of fulfilling the commitment which they had already made at the said meeting. There is no indication in the record that the Shoshit Dal legislators, who had voted in favour of adopting respondent No. 1 as the official candidate of its party at the party meeting held on 21st March, 1968, had subsequently shown any reluctance that they were not likely to abide by their party's decision so as to necessitate respondent No. 1 or his supporters to win them back by tendering or offering bribe to them. I have, therefore, grave doubt in my mind that any incident had at all taken place on the 27th March, 1968, of the nature alleged or that P.W. 2 or P.W. 7, had attended such a function or gathering.

49. At an assemblage of the alleged type, one should expect Shri B. P. Mandal, the leader of the party, to be present. But it has nowhere been suggested that he was, presumably because he was not an elector. If that was the reason for Shri B. P. Mandal's being out of the picture, then it is difficult to believe that P.W. 2 could have been invited to a function supposed to have been organised for the purpose of offering or giving bribe to the electors, for the simple reason that he was also not an elector. Even if any invitation for the alleged dinner would have been extended to him, he would have declined it after his request for adopting him as his party's candidate in the Council election had been turned down. However, P.W. 2 could never have been a witness to the offer and acceptance of bribe supposed to have taken place after the conclusion of the alleged dinner in the night of 27th March, 1968. I would refer in this connection to the evidence of P.W. 7 who has said:

"The number of invitees in the dinner on the 27th March, 1968, was about forty. About one-third of the invitees went away after the dinner was over. Amongst those who had left after the dinner were legislators besides Shri Shambhounath Jha and Jaswant Kumar Chaudhary."

Thus, the claim of P.W. 2 that he had seen the alleged offer and acceptance of bribe at the Mahanth's residence falls to the ground.

50. We are thus left with the evidence of P.W. 7 only. But his evidence also is open to various criticisms, some of which I have already mentioned, and, therefore, I am of the opinion that standing by itself, it cannot sustain a finding of corrupt practice against respondent No. 1. At one stage in his evidence P.W. 7 stated that after coming out of the Mahant's residence on the night in question, he "did give in writing to the authorities that bribe had been offered and accepted by such and such persons". If he had really taken this step, then there would have been something to corroborate his evidence on the point. But he did not indicate to which authorities, if at all, he had given in writing to this effect. He claimed to have maintained a copy of his alleged petition at his residence, but even that copy is not forthcoming. The truth obviously is that he had made no such complaint or maintained no such copy. He has himself admitted that before coming to the witness-box, he did not tell either the petitioner or his lawyer that "I had filed a written petition before such and such authority in connection with the incident which I saw in the night of 27th March, 1968". Thus, his evidence on this point stands discredited, and that must seriously undermine the weight of his evidence as a whole. His evidence about the action of respondent No. 1 in introducing monetary consideration for securing the support of the Shoshit Dal legislators is also difficult to be believed, since, this also stands uncorroborated by any reliable material. No doubt, in Ext. 1, something was said to this effect. But in his evidence before the Court, P.W. 2 did not take any responsibility for these allegations contained in Ext. 1, and so he did not speak a word about them. I do not think that the statement of P.W. 2 contained in Ext. 1 can be read as substantive evidence or utilised for corroborating the evidence of P.W. 7. With regard to incidents alleged by P.W. 7 to have taken place prior to the stage when respondent No. 1 was adopted as the official candidate of the Shoshit Dal, it is remarkable that he did not feel the necessity of telling anyone about them until the day of his deposition. He sought to explain his strange conduct by saying that the fact that respondent No. 1 had held out temptations of money before being sponsored as a candidate in the election was an open secret. But if there was any such open secret, then the least that one would have expected was that some body would have been examined to corroborate the evidence of P.W. 7. No corroboration to his evidence is afforded merely by asserting that what he has deposed was an open secret. Besides, if there was any such open secret, then it was not in respect of a matter which called for no action of any kind. The Assembly was in session at the relevant time, but he has admitted that with regard to the alleged incidents of 27th March, 1968, he did not raise any question in the Assembly, though it had continued to be in session for about three months after 28th March, 1968. I am, therefore, unable to rely upon the uncorroborated testimony of P.W. 7 with regard to the alleged introduction of monetary considerations by respondent No. 1 for securing the support of the electors belonging to his party.

51. Even with regard to the actual giving and taking of the alleged bribe, the evidence which P.Ws. 2 and 7 have given is discrepant. I am not referring to the evidence of P.W. 4 here, since I am fully convinced that he was not there at all. According to P.W. 7, the payment and acceptance of bribe money took place in a side-room adjacent to the main hall where the guests had assembled. The legislators were going into that side-room in batches of two or three and returning therefrom with envelopes containing money. He was also requested to go into that room for the same purpose that it was there that Balwant (R.W. 1) is supposed to have stretched out a long envelope before him saying that it contained Rs. 4,000/- which he was paying to him on behalf of respondent No. 1 and that he should support his candidature like others. But P.W. 2 has made no mention of any such side-room or of the legislators being taken there in batches of two or three. According to the version which P.W. 2 has given, everything had happened in the presence of the entire assemblage and it was not Balwant (R.W. 1), but respondent No. 1 who had personally handed over the money, after taking it from a cashier, to the various persons named by him. If the payment and acceptance of bribe took place in a side-room, then this could not have been within the view of P.W. 2 because it is not the evidence of P.W. 2 that he had gone or was conducted into the alleged side-room. Thus the evidence of P.Ws. 2 and 7 is discrepant not only with respect to the actual site where the deal is supposed to have taken place, but also with respect to the alleged payer. Such discrepancy on a material part of the petitioner's case must naturally affect its truth. Even with regard to the alleged recipients of bribe, there is discrepancy in the evidence. P.W. 2 has named 19 such recipients, in regard to five of whom he has added that they had counted the money which their respective envelope contained. P.W. 7 has named only five out of these 19 persons and has added sixth name,



that of Sri N. E. Horo, who has not been named by P.W. 2. Both P.Ws. 2 and 7 have named Munshi Hansda among the alleged recipient. Respondent No. 1 has tried to prove that Munshi Hansda was not in Patna at the relevant time since he was lying ill in a hospital at Mohul Pahari. But I need not deal with the evidence which respondent No. 1 has adduced on the point because the evidence of P.Ws. 2 and 7 against Munshi Hansda must be rejected for the simple reason that his name finds no place in Annexure 'B'. The name of Satish Prasad Singh (R.W. 2) also finds no place in Annexure 'B' and he has not been named by P.W. 7; yet P.W. 2 has included his name amongst those who were supposed to have received and counted the alleged bribe money. The story of counting is conspicuously absent in Annexure 'B' and is obviously an after-thought. In cross-examination P.W. 7 stated that Hasim Saheb was the first man whom he had seen coming out with a long envelope from the side-chamber and leaving the residence of the Mahanth. According to him, Mahanth Sukhdeo Giri, had also similarly come out and left with Hasim Saheb. This Hasim Saheb is supposed to have later approached P.W. 7, at his residence along with R.Ws. 1 and 5, but P.W. 2 has not named Hasim Saheb, although he claims to have seen Mahanth Sukhdeo Giri taking the money and counting it. If Hasim Saheb would have been the first man to come out like that in the company of Mahanth Sukhdeo Giri, then P.W. 2 could not possibly have missed to see him or to have forgotten his name. It is, therefore, difficult to believe this version of P.W. 7 with any degree of confidence. It would be legitimate to think that Hasim Saheb was not there at all, and in that event, it is difficult to accept the uncorroborated testimony of P.W. 7 that he had accompanied R.Ws. 1 and 5 to his residence late in the night about two hours after the close of the function at the residence of the Mahanth. Having regard to such discrepancies on vital matters, I find it difficult to rely upon the evidence of P.Ws. 2 and 7 with any degree of confidence and I feel that upon such evidence, the case of the petitioner with respect to the alleged incidents at the residence of the Mahanth and subsequently at the residence of P.W. 7 cannot succeed.

52. I should add here that neither P.W. 2 nor P.W. 7 has spoken about the following matters incorporated in Annexure 'B'.

- (i) That the election agent of respondent No. 1, Sri Brajeshwar Mullick, was present at the alleged function or introduced to the guests as they were arriving;
- (ii) That before the dinner, there was some talk beyond hearing in divided groups between R.Ws. 1 and 5 and some of the assembled guests;
- (iii) That towards the last stage, respondent No. 1 had made over one envelope containing currency notes to Balwant (R.W. 1) and another to Mahanth Ram Kishore Das;
- (iv) That Paul Hansda and Bhagat Murmu had asked for being entrusted with Rs. 4,000/- each to enable them to negotiate for two more votes during the night and ultimately respondent No. 1 had made over one envelope with currency notes to each of them.

Evidently, there is no truth in these allegations of the petitioner, and so the entire case set up by the petitioner in Annexure 'B' must fail. As the evidence of P.Ws. 2 and 7 stands, it must further be held that the petitioner has failed to prove his case with respect to incidents Nos. (vii), (viii) and (ix) also.

53. It remains to consider the evidence which the petitioner has adduced in order to prove the alleged incident (incident No. xii) at the Assembly building on the day of poll, when Shri Bhagat Murmu is supposed to have offered to pay money to Sri Jetha Kisku, M.L.A. in consideration of supporting the candidature of respondent No. 1. According to the particulars set out in Annexure 'C' there was similar incident (incident No. vi) at the M.L.A. Flat on the previous day, but since no attempt to substantiate the truth of incident No. VI was made by the petitioner, it is legitimate to infer that there is no truth in this part of the petitioner's case. It follows that if Bhagat Murmu had any intention of buying the support of Sri Jetha Kisku for the election of respondent No. 1 then he would not have left this work to be done at the last moment, on the day of poll at the polling station itself. However, it is necessary to examine the evidence of Kailash Pati Singh (P.W. 8), who is supposed to have witnessed such an incident. The version of P.W. 8 is that while the polling in the Assembly premises was in progress, he had heard Bhagat Murmu asking Jetha Kisku to cast his vote for respondent No. 1 in lieu of "payment of thousands of rupees" but Jetha Kisku expressed his annoyance to Bhagat Murmu. I, however, find it difficult to place any reliance upon the evidence of P.W. 8. Evidently, he is a highly interested witness. He accepted

In good grace that he was the proposer of the petitioner in the last election and had also figured as his counting agent, but when he came to be questioned as to whether he had acted also as his polling agent in that election, he took shelter behind lapse of his memory; whereupon the requisite polling agent from (Ext. C) was shown to him, and then he said that he remembered that he had also acted as the polling agent of the petitioner. It is impossible to believe that though he remembered having been the proposer and counting agent of the petitioner, he had forgotten whether he had also acted as his polling agent in the election. It is plain that he took up such an attitude with some purpose. It was a vain attempt on his part to explain his intention in the matter. He himself stated that he had a very bad reaction when he heard the talk between Bhagat Murmu and Jetha Kisku; and yet he made no written complaint regarding this matter to the Returning Officer who was present all along during the polling or to the Police in attendance in the Assembly building on the day of poll or to the Speaker of the Assembly which was in session on that day. As a polling agent of the petitioner, this was the least that he was expected to do, if there would have been any incident of the nature described by him. The fact that he took no such step leaves no room for doubt that he has come out with an imaginary story in an anxiety to support the petitioner's case in the present litigation. His political affinity with the petitioner was undoubtedly great. At the time of the impugned election he was a member of the B. K. D., of which the petitioner was the official candidate in the election. Paragraph 13 of his evidence reads as follows:—

"At present I am a member of the Janta Party. The petitioner is also a member of the Janta Party. While I was a member of the B. K. D., the petitioner was also a member of the B. K. D. Both of us were also in the Swatantra Party previously. Prior to that I was in Janta Party which had merged in the Swatantra Party. At that time also the petitioner was the member of the Janta Party. All the while Raja Bahadur Kamakhya Narayan Singh was the leader of the Janta Party and Swatantra Party by turns."

It is manifest that the evidence of P.W. 8 is also highly tainted with partisanship, and as such his testimony, uncorroborated by any other material, is not at all sufficient to prove the petitioner's case with respect to incident No. (vii). I should add that the entire case of the petitioner with regard to this incident must fail on another ground. There is neither any averment nor any evidence that Bhagat Murmu had committed the alleged corrupt practice with the consent of respondent No. 1 or his election agent. It has also not been proved that the result of the election, so far as it concerned respondent No. 1, has been materially affected by the alleged corrupt practice supposed to have been committed in his interest. Thus, with regard to this incident also, the petitioner's case fails.

54. I should point out here that during the cross-examination of Satish Prasad Singh (R.W. 2), a case was sought to be made out that a free gift of a brand new Fiat Car was made to him by the Auto Distributors, the firm of respondent No. 1, by way of reward for getting him elected to the Rajya Sabha. Searching questions were put to R.W. 2 in this connection, to some of which he was unable to provide a satisfactory answer. But that can be of no avail to the petitioner in the present case because no such case is to be found in the entire body of the election petition. I, therefore, decline to go into this matter any further.

55. While dealing with the petitioner's case on the point of corrupt practice, I cannot help commencing upon his conspicuous absence from the witness-box during the trial. On one occasion, as the evidence of P.W. 8 shows, he was personally present in Court, and yet he did not think it worthwhile to step into the witness-box. It is true that under the law there was no such obligation upon the petitioner. But while respondent No. 1 balked the cross-examination, the petitioner avoided it altogether. His absence from the witness-box must give rise to an inference that he was not prepared to take any personal responsibility for the truth of any of the averments contained in the election petition and to submit himself to cross-examination with regard to those averments. To say the least, he has not thought fit even to corroborate the evidence of any of his witnesses by saying that any one of them had ever told him about any of the incidents involving corrupt practice on the part of respondent No. 1 or his supporters. It seems to me that the petitioner has merely set the ball rolling and withdrawn from the field leaving it entirely to his party men and their supporters to manage and look after the game, himself playing the role of a silent spectator. In other words, the present trials has merely provided a battle ground to enable the members and supporters of the petitioner's party to indulge in mud-slinging at their rivals in politics. If

the grievances of the petitioner would have been genuine, we would not have seen a drama like that of Hamlet without the Prince of Denmark. However, upon a scrutiny of all the relevant materials on the record, I have come to the conclusion that the evidence which the petitioner has adduced in order to prove this case on the point of corrupt practice falls far short of the requisite standard and is wholly insufficient to warrant an affirmative finding in his favour. Thus, this attack against the validity of the election of respondent No. 1 also fails.

56. It is necessary to say just one word with regard to the case put forward in paragraph 29 of the election petition relating to non-observance of the rules contained in the Conduct of Election Rules, 1961, relating to counting of single transferable votes. No evidence was adduced by the petitioner on this point, and yet a petition was filed on his behalf on the 16th May, 1969, saying that, "in the interests of justice and for a proper appreciation and ascertainment of the truth behind the evidence relating to corrupt practice, it is highly expedient that the first preference votes cast in favour of the Respondent No. 1 and the petitioner be examined and scrutinised and the names of the members who voted in their favour be ascertained before the commencement of the argument". But I rejected this petition as no foundation had been laid in the evidence adduced by the petitioner for the adoption of a course which would have exposed the secrecy of the ballot papers.

57. Finally, I should make a reference to the Parliamentary Debates held in the Rajya Sabha on the 29th April, 1968, a copy of the Official Report of which was shown to me during the arguments. The Report shows that on that day when respondent No. 1 was about to be sworn in as a member of the Rajya Sabha from Bihar, a member from the Uttar Pradesh, Shri Rajnarain, remarked that he wanted the opinion of the House whether it was proper that those persons who had got themselves elected to the House by violating the Constitution, by spending money, by corrupting their party and by paying bribe should be permitted to take their oaths. At this the Chairman observed:

"Shri Rajnarain's point is misplaced. The elections of some Members—he did not mention the names—have been duly notified . . . ."

The Chairman further observed:

"The elections of Shri Sitaram Jaipuria and Shri Rajendra Kumar Poddar, have been notified and they are under the law entitled to make the oath or affirmation."

The Report says that "at this stage, Shri Rajnarain left the House". The fact that there was such an incident in the Rajya Sabha cannot be doubted. But beyond that the Report proves nothing. Shri Rajnarain is not a witness in this case. The petitioner did not even include his name in his lists of witnesses. The truth of the statements made by him in the Rajya Sabha has not been tested upon his examination before this Court. The basis of his statements is not known. I fail to see how they can be of any avail to the petitioner in this case. I, therefore, leave the Report out of consideration.

58. To sum up, my answers on the various issues framed in this case are as follows:

**Issue No. 1.**—The election petition is fit to be dismissed under section 86(1) as it does not comply with the mandatory provision of section 81(3) of the Act of 1951. It suffers from no other defect.

**Issue No. 2.**—The answer is in the negative.

**Issue No. 3.**—The answer is in the negative.

**Issue No. 4.**—The answer is in the affirmative.

**Issue No. 5.**—Respondent No. 1 was not qualified to be enrolled as an elector in the electoral roll of Patna West Assembly Constituency for the time being in force, but the petitioner is not entitled to challenge his election on that ground.

**Issue No. 6.**—The answer is in the negative.

**Issue No. 7.**—The answer is in the negative.

**Issue No. 8.**—The answer is in the negative.

**Issue No. 9.**—The answer is in the negative.

**Issue No. 10.**—The answer is in the negative.

**Issue No. 11.**—The petitioner is not entitled to either of the two declarations which he has sought from the court, or to any other relief.

59. The election petition, accordingly, fails and the same is dismissed, with costs which will be payable by the petitioner to respondent No. 1, together with a consolidated hearing fee of Rs. 750/-.

60. Let a substance of this decision be intimated forthwith to the Election Commission and the Chairman of the Rajya Sabha, and let an authenticated copy of this judgment be forwarded to the Election Commission as soon as possible.

(Sd.) G. N. PRASAD,

Patna High Court,  
The 14th July, 1969.

[No. 82/BR-1/68.]

## ORDERS

New Delhi, the 8th August 1969

**S.O. 3630.**—Whereas the Election Commission is satisfied that Shri Hari Chand Manjhi, R/o village Lodipur Tola Purwarbigha P.O. Belaganj (Gaya), a contesting candidate for election to the Bihar Legislative Assembly from Gaya Mufasil, Assembly Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

2. And whereas, the said candidate even after due notice has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

3. Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Hari Chand Manjhi, to be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-LA/251/69(6).]

## आदेश

नई दिल्ली, 8 अगस्त, 1969

**एस० प्रो० 3631.**—या निर्वाचन आयोग का समाधान हो गया है कि बिहार विधान सभा के लिए निर्वाचन के लिए किया मोफसिस निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री हरिचन्द मांझी, ग्राम लोदीपुर टोला परबलबिघा, पो० ब्रेलागज (गया), लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदधीन बनाए गए नियमों द्वारा यथा अनेक्षित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार उसे सम्यक् सूचना दिए जाने पर भी लेखा दाखिल करने में असफल रहा है और उसने अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है; तथा निर्वाचन आयोग का हि समाधान हो गया है कि उसके पास इस असफलता के लिए कोई प्रमाणित कारण या न्यायोचित्य नहीं है ;

अतः, अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री हरिचन्द मांझी को संसद के किसी भी सदन या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने पर और होने के लिए, इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है ।

[सं० बिहार-वि० सं०/251/69(6)]

New Delhi, the 11th August 1969

**S.O. 3632.**—Whereas the Election Commission is satisfied that Shri Ami Lal Mandal R/o Village & P.O. Basbitti, District Saharsa, a contesting candidate for election to the Bihar Legislative Assembly from Supaul Assembly Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;



2. And whereas, the said candidate even after the notice has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

3. Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Ami Lal Mandal, to be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-LA/107/69(7).]

नई दिल्ली, 11 अगस्त, 1969

एस० ओ० 3633.—यतः निर्वाचन आयोग का समाधान हो गया है कि बिहार विधान सभा के लिए सुपील निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री अमी लाल मंडल, ग्राम व पो० बसविट्टी, जिला सहरसा, लोकप्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार उसे सम्यक सूचना दिए जाने पर भी लेखा दाखिल करने में असफल रहा है और उसने अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है ; तथा निर्वाचन आयोग का यह समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है ;

अतः, अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री अमी लाल मंडल को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए, इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है ।

[सं० बिहार-वि० सं०/107/69(7)]

S.O. 2634.—Whereas the Election Commission is satisfied that Shri Nawal Kishore Singh, R/o village Gareriakhand, ward No. 3 P.O. Jahanabad (Gaya), a contesting candidate for election to the Bihar Legislative Assembly from Jahanabad Assembly Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

2. And whereas, the said candidate even after due notice has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

3. Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Nawal Kishore Singh, to be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-LA/236/69(9).]

एस० ओ० 3635:—यतः निर्वाचन आयोग का समाधान हो गया है कि बिहार विधान सभा के लिए निर्वाचन के लिए जहानाबाद निर्वाचन-क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री नवल किशोर सिंह, मो० गड़ेरिया खण्ड, वार्ड नं० 3, डाकघर जहानाबाद (गया), लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार उसे सम्यक सूचना दिए जाने पर लेखा दाखिल करने में असफल रहा है और उसने अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है ; तथा

निर्वाचन आयोग का यह समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है ;

अतः, अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री नवल किशोर सिंह को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए, इस आदेश की तारीख से तीन वर्ष की कामावधि के लिए निरहित घोषित करता है ।

[सं० बिहार-वि० सं०/236/69(9)]

*New Delhi, the 21st August 1969*

**S.O. 3636.**—Whereas the Election Commission is satisfied that Shri Yashodhar Pandey R/O village Dahibat Madhopur, P.O. Kamalpur, District Darbhanga (Bihar) a contesting candidate for election to the Bihar Legislative Assembly from 80-Madhubani Assembly Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

2. And whereas, the said candidate even after due notice has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure:

3. Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Yashodhar Pandey to be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-LA/80/69(10).]

नई दिल्ली, 21 अगस्त, 1969

एस० ओ० 3637:—यह, निर्वाचन आयोग का समाधान हो गया है कि बिहार विधान सभा के लिए निर्वाचन के लिए 80-मधुबनी निर्वाचन क्षेत्र के चुनाव लड़ने वाले उम्मीदवार श्री यशोधर पांडे, निवासी ग्राम दहिबत माधोपुर, डा० कमलपुर, जिला दरभंगा (बिहार), लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने उसे सम्यक सूचना दिए जाने पर भी, अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है, और निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है,

अतः, अब, उक्त अधिनियम की धारा 102 क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री यशोधर पाण्डे को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए, इस आदेश की तारीख से तीन वर्ष की कामावधि के लिए निरहित घोषित करता है ।

[सं० बिहार-वि० सं०/80/69(10)]

**S.O. 3638.**—Whereas the Election Commission is satisfied that Shri Sita Sharan Yadav, R/O village Radha Kant, P.O. Selibeli, Via Jainagar, District Darbhanga (Bihar) a contesting candidate for election to the Bihar Legislative Assembly from 77-Harlakhi Assembly Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

2. And whereas, the said candidate even after due notice has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

3. Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Sita Sharan Yadav, to be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-LA/77/69(11).]

एस० ओ० 3639.—यतः, निर्वाचन आयोग का समाधान हो गया है कि बिहार विधान सभा के लिए निर्वाचन के लिए 77-हरलाखा निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री सीता शरण यादव, निवासी, ग्राम राधाकान्त, पोस्ट सेनाखेली माया जयनगर, जिला दरभंगा, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदर्थन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं;

और यतः, उक्त उम्मीदवार ने उसे सम्यक नोटिस दिए जाने पर भी, अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया गया है, और निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण अथवा न्यायोचित्य नहीं है;

अतः, अब, उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग एतद्द्वारा उक्त श्री सीता शरण यादव को संसद के किसी भी सदन के या किसी राज्य की विधान परिषद् के सदस्य चुने जाने और होने के लिए, इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

[सं० बिहार-वि० सं०/77/69(11)]

S.O. 3640.—Whereas the Election Commission is satisfied that Shri Saryug Sadai, R/O village and P.O. Ghoghardiha, District Darbhanga (Bihar) a contesting candidate for election to the Bihar Legislative Assembly from 83-Phulparas Assembly Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

2. And whereas, the said candidate even after due notice has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

3. Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Saryug Sadai to be disqualified for being chosen as and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. BR-LA/83/69(12).]

By Order,

A. N. SEN, Secy.

नई दिल्ली, 21 अगस्त 1969

एस० प्रो० 3641 :—यतः, निर्वाचन आयोग का समाधान हो गया है कि बिहार विधान सभा के लिए निर्वाचन के लिए 83 फुलपरास निर्वाचन क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री सरयुग सदाय निवासी ग्राम पो० धोवरडीहा, जिला दरभंगा (बिहार), लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदर्थन बनाए गए नियमों द्वारा अपेक्षित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे हैं

और, यतः, उक्त उम्मीदवार ने उसे सम्यक सूचना दिए जाने पर भी अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है; तथा निर्वाचन आयोग का यह समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है;

अतः, अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त भी सरयुग सहाय को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए, इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है ।

[सं बिहार-वि० सं०/83/69(12)]

आदेश से,

ए० एन० सेन, सचिव ।

#### ORDER

*New Delhi, the 21st August 1969*

**S.O. 3642.**—Whereas the Election Commission is satisfied that Shri L. H. Siddaiah, Advocate, 112, Vinoba Road, Mysore (Mysore State), a contesting candidate for election to the Mysore Legislative Assembly from Santhamarahalli constituency, held in February, 1967 has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate even after the due notice has not given any reason or explanation for the failure and the Election Commission is satisfied that he has no good reason or justification for such failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri L. H. Siddaiah to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this order.

[No. MY-LA/113/67:]

By Order,

K. S. RAJAGOPALAN, Secy

आदेश

नई दिल्ली, 21 अगस्त, 1969

**एस० ओ० 3643 :—**यतः निर्वाचन आयोग का समाधान हो गया है कि फरवरी, 67 में हुए मैसूर विधान सभा के लिए निर्वाचन के लिए सन्धेमरहली निर्वाचन-क्षेत्र से चुनाव लड़ने वाले उम्मीदवार श्री एल० एच० सिद्दाइया, अधिवक्ता, 112 विनोबा रोड, मैसूर (मैसूर राज्य). लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का कोई लेखा दाखिल करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार उसे सम्यक् सूचना दिए जाने पर भी लेखा दाखिल करने में असफल रहा है और उसने अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है; तथा निर्वाचन आयोग का यह समाधान हो गया है कि उसके पास इस असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है ;

अतः, अब, उक्त अधिनियम की धारा 10-क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री एल० एच० सिद्दाइया को संसद् के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए, इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है ।

[सं० मैसूर-वि० सं०/113//67]

आदेश से,

के० एस० राजगोपालन, सचिव ।



**गृह मंत्रालय**

नई दिल्ली, 30 अगस्त, 1969

**एस० ओ० 3644:—**दण्ड प्रक्रिया संहिता, 1898 (1898 का 5) की धारा 492 की उप-धारा (1) के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा मद्रास के वकील श्री वी० पी० रमन को मेजर अस्थाना और अन्य के विरुद्ध विशेष पुलिस संस्थान के अभियोग आर० सी० संख्या 20/63 मद्रास से उत्पन्न आपराधिक अपील संख्या 509/1968 के मद्रास उच्च न्यायालय में संचालन के लिये लोक अभियोजक नियुक्त करती है।

[सं० 225/28/69-प्र० सं० प्र० II]

आर० सी० जोशी, अवसर सचिव।

**MINISTRY OF HOME AFFAIRS**

*New Delhi, the 30th August 1969*

**S.O. 3645.**—In exercise of the powers conferred under sub-section (1) of section 492 of the Code of Criminal Procedure, 1898 (5 of 1898), the Central Government hereby appoints Shri V. P. Raman, Advocate, Madras as a Public Prosecutor to conduct before the High Court of Judicature at Madras Criminal Appeal No. 509/1968, arising out of the Special Police Establishment Case R.C. No. 20/63, Madras against Major Asthana and others.

[No. 225/28/69-AVD. II.]

R. C. JOSHI, Under Secy.

*New Delhi, the 9th September 1969*

**S.O. 3646.**—Whereas arrangements have been made by the Central Government with the Government of the Federal Republic of Germany for taking the evidence of witnesses residing in the Federal Republic of Germany in relation to criminal matters in courts in India, the Central Government, in pursuance of sub-section (3) of section 504 of the Code of Criminal Procedure, 1898 (5 of 1898), hereby directs that commissions from courts in India for the examination of witnesses in the Federal Republic of Germany shall be issued in the form annexed hereto, to the following courts, namely:—

- (1) Landgericht, Bonn; or
- (2) Amtsgericht, Bonn; or
- (3) Staatsanwalt tschaft, Bonn.

and that such commissions shall be sent to the Ministry of External Affairs, Government of India, New Delhi, for transmission to the Court concerned.

**IN THE COURT OF**

Commission to examine witness outside India

[Section 504(3) of the Code of Criminal Procedure, 1898]

To

Through the Ministry of External Affairs, Government of India, New Delhi.

Whereas it appears to me that the evidence of ..... is necessary for the ends of justice in case No. .... Vs. .... in the court of ..... and that such witness is residing within the local limits of your jurisdiction and his attendance cannot be procured without un-reasonable delay, expense or inconvenience, I ..... have the honour to request and do

hereby request that for the reasons aforesaid and for the assistance of the said Court you will be pleased to summon the said witness to attend at such time and place as you shall appoint and that you will cause such witness to be examined upon the interrogatories which accompany this commission (for *viva voce*).

Any party to the proceeding may appear before you by his counsel or agent or if not in custody, in person and may examine, cross examine or re-examine (as the case may be) the said said witness.

And I further have the honour to request that you will be pleased to cause the answers of the said witnesses to be reduced into writing and all books, letters, papers, and documents produced upon such examination to be duly marked for identification and that you will be further pleased to authenticate such examination by your official seal (if any) and by your signature and to return the same together with this commission to the undersigned through the Ministry of External Affairs, Government of India, New Delhi.

Given under my hand and the seal of the Court this day of ..... 19

Judge

District Magistrate, Presidency Magistrate.

[No. F.5/2/69-Judl.I.]

B. SHUKLA, Dy. Secy.

(सक्षम प्राधिकारी का कार्यालय)

नोटिस

नई दिल्ली, 25 अगस्त, 1969

एस० नो० 3647—इसके द्वारा, लेख्य प्रमाणक नियम (नोटरीज रुस), 1956 के नियम 6 के अनुसार, सक्षम प्राधिकारी द्वारा सूचना दी जाती है कि उक्त प्राधिकारी श्री बाल कृष्ण अधिवक्ता, हनुमानगढ़ टाउन (राजस्थान) ने उक्त नियमों के नियम 4 के अधीन, गंगानगर जिले के हनुमानगढ़ क्षेत्र में लेख्य प्रमाणक (नोटरी) का काम करने की नियुक्ति के लिए आवेदन-पत्र भेजा है।

उक्त व्यक्ति की लेख्य प्रमाणक के रूप में नियुक्ति के बारे में यदि कोई आपत्तियां हों तो वे इस नोटिस के प्रकाशित होने के चौदह दिन के अन्दर नीचे हस्ताक्षर करने वाले को लिखकर भेज दिये जायें।

[सं० 28/35/68-जे० III]

के० त्यागराजन, उप सचिव।

# CABINET SECRETARIAT

(Department of Statistics)

New Delhi the 28th August, 1969

S.O. 3648.—In exercise of the powers conferred by sub-section (i) of section 8 of the Indian Statistical Institute Act, 1959 (57 of 1959), the Central Government hereby constitutes a Committee consisting of:

1. Dr. Atma Ram,—Chairman.

Director General, Council of Scientific & Industrial Research,  
New Delhi.

*Members*

2. Dr. Ashok Mitra,  
Chairman, Agricultural Prices Commission,  
New Delhi.
  3. A representative of Indian Statistical Institute.
  4. Joint Secretary, Finance, Department of Expenditure (FA to Deptt. of Statistics).
  5. Director, CSO and *ex-officio* Joint Secretary, Department of Statistics.
  6. Deputy Secretary, Department of Statistics—*Member Secretary*.
- and assign the following duties to the said Committee, namely:—

- (a) preparation and submission to the Central Government of statements showing programmes of work agreed to be undertaken by the Indian Statistical Institute during the year 1970-71 for which the Central Government may provide funds, as well as general financial estimates of such work; and
  - (b) the settlement on broadlines of the programmes of such work.
2. The Committee shall submit its report before December 1969 at the latest.
  3. The Department of Statistics will perform the secretarial functions of the Committee, the headquarters of which will be at New Delhi.

[No. 29/4/69-Tech.]

K. P. GEETHAKRISHNAN, Dy. Secy.

**मंत्रिमंडल सचिवालय**

**(सांख्यिकी विभाग)**

नई दिल्ली, 28 अगस्त, 1969

एत० क्रो० 3649.—भारतीय सांख्यिकी अधिनियम, 1959 (1959 का 57) की धारा 8 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एक समिति का गठन करती है जिसमें निम्नलिखित व्यक्ति होंगे :

- |   |            |
|---|------------|
| 1. डा० आत्माराम,<br>महानिदेशक, विज्ञान-उद्योग अनुसंधान परिषद,<br>नई दिल्ली।       | अध्यक्ष    |
| 2. डा० अशोक मित्रा,<br>अध्यक्ष, कृषि-मूल्य-आयोग,<br>नई दिल्ली।                    | सदस्य      |
| 3. भारतीय सांख्यिकीय संस्थान के एक प्रतिनिधि।                                     | सदस्य      |
| 1. संयुक्त सचिव, वित्त व्यवस्था विभाग,<br>(सांख्यिकी विभाग के वित्तीय सहायकार)।   | सदस्य      |
| 5. निदेशक केन्द्रीय सांख्यिकीय संगठन तथा<br>सांख्यिकी विभाग के पदेन संयुक्त सचिव। | सदस्य      |
| 6. उप सचिव, सांख्यिकी विभाग   | सदस्य-सचिव |

तथा उक्त समिति को निम्नलिखित कार्य सौंपती है, अर्थात्:

(क) भारतीय सांख्यिकी संस्थान द्वारा 1970-71 के दौरान हाथ में लिए गये कार्य जिनके लिये केन्द्रीय सरकार निधि की व्यवस्था करती है को सूचित करने वाले विवरण तैयार करना तथा उन्हें केन्द्रीय सरकार के पास भेजना तथा इस प्रकार के कार्य का सामान्य वित्तीय अनुमान तैयार करना, और

(ख) इन प्रकार के कार्यक्रमों को व्यापक आधार पर निपटाना ।

2. समिति अपना प्रतिवेदन दिसम्बर 1969 के पहले प्रस्तुत करेगी ।

3. समिति का सचिवालय कार्य सांख्यिकी विभाग करेगा । समिति का मुख्यालय नई दिल्ली में होगा ।

[सं० 29/4/69-तकनीकी]

के० पी० गीताकुण्डन, उप सचिव ।

## MINISTRY OF FINANCE

### (Department of Expenditure)

*New Delhi, the 26th August 1969*

**S.O. 3650.**—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and of all other powers enabling him in this behalf and after consultation with the Comptroller and Auditor General in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Fundamental Rules, namely:—

1. These rules may be called the Fundamental (Sixth Amendment) Rules, 1969.

They shall come into force on the date of their publication in the Official Gazette.

2. In the Fundamental Rules, in clauses (j) (i) and (k) of rule 56, for the words "the age-limit for the purpose of direct recruitment to which is below thirty-five years", the following words shall be substituted, namely:—

"and had entered Government service before attaining the age of thirty-five years".

[No. 7(14)-EV/67-I.]

**S.O. 3651.**—In exercise of the powers conferred by the proviso to article 309 of the Constitution and of all other powers enabling him in this behalf, the President hereby makes the following regulations further to amend the Civil Service Regulations, namely:—

1. (1) These Regulations may be called the Civil Service (Tenth Amendment) Regulations, 1969.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Civil Service Regulations, in Clauses (h) (i) and (i) of article 459—  
for the words "the age-limit for the purpose of direct recruitment to which is below thirty-five years" the following words shall be substituted, namely:—

"and had entered Government service before attaining the age of thirty-five years."

[No. 7(14)-E.V/67-II.]

N. S. CHANDRAMOWLI, Under Secy



New Delhi, the 2nd September 1969

S. O. 3652.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution, the President after consultation with the Comptroller and Auditor-General in relation to persons serving in the Indian Audit and Accounts Department, hereby makes the following regulations further to amend the Civil Service Regulations, namely:—

1 (1) These regulations may be called the Civil Service (Eleventh Amendment) Regulations, 1969.

(2) They shall come into force on the 1st day of October, 1969.

2. In the Civil Service Regulations—

(a) for article 15, the following article shall be substituted, namely:—

“15. *Audit Officer* means the accounts and Audit Officer, whatever his official designation, in whose circle the office of the pension sanctioning authority is situated.”;

(b) for Chapter XLVII and Sections and articles thereunder, the following Chapter and Sections and articles shall be substituted, namely:—

“CHAPTER XLVII—APPLICATIONS FOR AND GRANT OF PENSIONS.”  
SECTION I—General

905. (1) The rules in this Chapter apply to all Government servants applying for pensions under these Regulations except the members of the Indian Civil Service to whom Chapter XLIX applies.

(2) For the purpose of this Chapter “gratuity” means death-cum-retirement gratuity and includes service gratuity, if any.

906. (1) Every Head of the Department shall have a list prepared every six months, i.e. on the 1st January and the 1st July each year of all gazetted and non-gazetted Government servants who are due to retire within the next 12 to 18 months of that date. A copy of every such list shall be supplied to the Audit Officer concerned not later than the 31st January or the 31st July, as the case may be, of that year. In the case of persons retiring for reasons other than by way of superannuation, the Head of the Department shall promptly inform the Audit Officer as soon as the impending retirement becomes known to him.

(2) The Head of the Department or Office shall write to the Directorate of Estates at least one year before the anticipated date of retirement of a Government servant who is in occupation of Government accommodation, for issue of ‘No Demand Certificate’ so that the sanction of pension and gratuity is not delayed and the necessary dues are realised within the period specified in clause (3) of article 923.

907. Every Government servant shall submit a formal application for pension in Form 30. Gazetted Government servants shall send their applications direct to the Audit Officer and non-gazetted Government servants to the Head of Office. Every Government servant should submit his formal application for pension at least one year in advance of the date of his anticipated retirement:

Provided that,—

(i) in cases in which the date of retirement cannot be foreseen one year in advance, the application shall be submitted immediately after the date of retirement is settled; and

(ii) a Government servant proceeding on leave preparatory to retirement in excess of one year, shall submit the application at the time of proceeding on such leave.

908. A Gazetted Government servant whose pay and allowances are drawn and disbursed by the Head of Office on the establishment bill, shall submit his formal application for pension to the Head of Office and the procedure as laid down in Section III shall apply to him.

NOTE:—In respect of a non-gazetted Government servant holding a gazetted post in an officiating capacity at the time of retirement the Head of Office shall send the service book of the Government servant concerned to the Audit Officer at least one year in advance of the date of retirement of such Government servant, after verifying that the certificate of verification relating to non-gazetted

service has been recorded and that the Service-book is complete in all respects. If a non-gazetted Government servant is promoted to officiate in a gazetted post at any time during the last year of his service, and in whose case, pension papers have not been prepared and forwarded to the Audit Officer, the service book of such a Government servant duly verified and completed in all respects, shall be forwarded immediately by the Head of Office to the Audit Officer.

909. The Head of the Department or any other authority competent to make appointment to the post substantively held by the retiring Government servant shall also be competent to sanction pension and gratuity. Such authority shall, after due consideration of the facts of the case and having due regard to the provisions of article 470, record in Form 25-A, his orders as to whether the service rendered by the Government servant has been satisfactory and is approved for the grant of the full pension or gratuity or both, admissible under the rules or whether the service so rendered has not been thoroughly satisfactory and what reduction should for that reason be made from the full pension or gratuity or both, admissible under the rules.

**Note:—**Notwithstanding anything contained in this article, the Comptroller and Auditor-General shall be the authority competent to sanction pension of officers of the Indian Audit and Accounts Service.

910. (1) Subject to the provisions of articles 351 and 351-A, pension once sanctioned after final assessment, shall not be revised to the disadvantage of the Government servant, unless such a revision becomes necessary on account of detection of a clerical error subsequently:

Provided that no revision of pension to the disadvantage of the pensioner shall be ordered by the pension sanctioning authority without the sanction of the Ministry of Finance if the clerical error is detected after a period of two years from the date of sanction of pension.

(2) For the purpose of clause (1), the Government servant concerned shall be served with a notice by the pension sanctioning authority, requiring him to refund the excess payments so made within a period of two months from the date of receipt by him of the notice. On his failure to comply with the notice, the authority sanctioning the pension shall order that such excess payment shall be adjusted by short payments of pension in future, in one or more instalments, as the said authority may order.

#### SECTION II—Gazetted Government servants

911. The Audit Officer concerned shall undertake the work of preparing pension papers in Form 25 one year before the date on which a Government servant is due to retire on superannuation or on the date on which he proceeds on leave preparatory to retirement, whichever is earlier. This work shall not be delayed till the Government servant has actually submitted his formal application for pension.

912. (a) The Audit Officer shall send to every gazetted Government servant, under intimation to the Head of the Department, or where the retiring Government servant is himself the Head of the Department, to the Ministry concerned a copy of Form 30 (Formal Application for Pension) one year in advance of the date on which the Government servant attains the age of superannuation or before the date of his anticipated retirement, if earlier, with the request that it should be returned to him duly completed within a period of three months from the date of issue of intimation to the Government servant by him but in no case later than the actual date of retirement. The Audit Officer shall also draw attention of the retiring Government servant to the provisions of article 930.

(b) On receipt of a copy of formal application for pension from the Audit Officer, the retiring Government servant shall return it duly completed to the Audit Officer within the period mentioned in clause (a) under intimation to the Head of the Department or the Ministry if he is himself the Head of the Department.

(c) (i) On receipt of the intimation from the Audit Officer, the Head of the Department or the Ministry shall communicate the orders of the authority sanctioning the pension to the Audit Officer in Form 25-A within a period of three months from the date of receipt of the intimation but in no case later than the date of retirement of the Government servant.

(ii) If the orders of the authority sanctioning the pension are not received by the Audit Officer within the period mentioned in sub-clause (i), he shall assume that the retiring Government servant has been allowed full pension or gratuity or both as admissible under the rules.

(iii) If after the communication of the order of sanction to the Audit Officer any event occurs which has a bearing on the amount of pension admissible, the fact shall be promptly reported to the Audit Officer by the authority sanctioning the pension. In case no such event has occurred a report to that effect together with a certificate as to the satisfactory nature of the service rendered by the Government servant after the despatch of Form 25-A mentioned in sub-clause (i) shall be forwarded to the Audit Officer within a week of the date on which the Government servant retires.

(d) The details of any Government dues outstanding against the Government servant and the steps taken to safeguard the interest of the Government in this behalf shall also be communicated by the Head of Office to the Audit Officer at least 14 days before the date of retirement of the Government servant.

(e) When the Government servant has retired from service, a notification in the Gazette specifying the actual date of his retirement shall be issued within a week of such date and a copy of every such notification shall be forwarded to the Audit Officer immediately:

Provided that in cases where a notification in the Gazette regarding the grant of leave preparatory to retirement to a gazetted Government servant is issued, a further notification that the Government servant actually retired on the expiry of such leave shall not be necessary unless the leave is curtailed and the retirement is for any reason ante-dated or postponed.

(f) As soon as the pension and gratuity are finally assessed by the Audit Officer and the pension is payable in his circle of audit, he shall prepare Pension Payment Order after taking into account the orders of pension sanctioning authority and the audit encasement on the third page of Form 25, but shall not issue the said order more than a fortnight in advance of the date on which the Government servant is due to retire. The fact of issue of Pension Payment Order shall be promptly reported to the pension sanctioning authority. If the payment of pension is desired in another circle of audit, the Audit Officer shall send the necessary payment authority to the Audit Officer of that circle for arranging payment at the Treasury concerned.

913. (a) When a Government servant whose pension is payable in India is likely to retire before his pension can be finally assessed and settled in accordance with the provisions of this Chapter, the Audit Officer shall authorise the disbursement of pension to which, after the most careful summary investigation that he can make without delay, he believes the Government servant to be entitled. If the payment of pension is desired in another circle of audit, the Audit Officer shall send a copy of the order to the Audit Officer of that circle for issuing necessary instructions to the Treasury Officer concerned for disbursement of the pension.

(b) When a Government servant whose pension is payable in England is likely to retire before his pension can be finally assessed and settled, the Audit Officer shall, after the most careful summary investigation that he can make without delay, report to the High Commissioner for India in the United Kingdom, through the authority competent to sanction the pension, the minimum amount to which he believes the Government servant to be entitled. The High Commissioner shall then authorise the immediate disbursement of the amount reported or such smaller amount as may be deemed proper.

(c) The disbursement of pension under clause (a) or clause (b) shall be subject to revision on the completion of the detailed investigation and enquiries, if any. If the amount of pension granted to a Government servant under clause (a) or clause (b) be afterwards found to be in excess of that to which he is entitled under the Regulations, he shall be called upon to refund such excess in the manner and subject to the conditions specified in article 910.

(d) Subject to the provision of clause (a), the Audit Officer may also sanction the disbursement of not more than three-fourths of the amount of gratuity. If, however, the amount of gratuity so disbursed proves to be larger than the amount

finally assessed, the gratuitant shall not be required to refund any excess actually disbursed to him.

SECTION III—Non-Gazetted Government Servants

914. (1) Every Head of Office shall undertake the work of preparing pension papers one year before the date on which a Government servant is due to retire on superannuation or on the date on which he proceeds on leave preparatory to retirement, whichever is earlier. This work shall not be delayed till the Government servant has actually submitted the formal application for pension.

(2) The Head of Office shall send to every non-gazetted Government servant a copy of Form 30 (Formal Application for Pension) one year in advance of the date on which the Government servant attains the age of superannuation or before the date of his anticipated retirement if earlier, with the request that it should be returned to him duly completed within a period of three months from the date of issue of intimation to the Government servant by him but in no case later than the actual date of retirement. The Head of Office shall also draw attention of the retiring Government servant to the provisions of article 930.

915. As a first step the Head of Office shall prepare a statement of the applicant's service in the second page of Form 25 and thereafter proceed as follows :—

- (a) he shall go through the service book and the service roll, if any, and satisfy himself as to whether the annual certificates of verification for the entire service are recorded therein. In respect of the unverified portion or portions of service, he shall arrange to verify it or them, as the case may be, with reference to pay bills, acquittance rolls or other relevant records and record the necessary certificates in the service book or service rolls, as the case may be;
- (b) if the service for any period is not capable of being verified in the manner specified in clause (a), that period of service having been rendered by the Government servant in another office or department, a reference shall be made to the Head of that office or, as the case may be, of that department in which the officer is shown to have served during that period for the purposes of verification;
- (c) if any portion of service rendered by a Government servant is not capable of being verified in the manner specified in clauses (a) and (b), the Government servant shall file a written statement on plain paper stating that he had in fact rendered that period of service and shall, at the foot of the statement make and subscribe to a declaration as to the truth of that statement and shall, in support of such declaration, produce all documentary evidence and furnish all information which is in his power to produce or furnish. The authority competent to sanction pension to that Government servant shall, after taking into consideration the facts in the written statement and the evidence produced and the information furnished by that Government servant in support of the said period of service, if satisfied, admit that portion of service as having been rendered for the purposes of calculating the pension of that Government servant.

916. After completing the service statement mentioned in article 915, the Head of Office shall complete the first page of Form 25. This should be done irrespective of the fact whether a formal application for pension has been received from the Government servant or not. If at such time the said formal application from the Government servant has not yet been received, the relevant columns in the first page of Form 25 shall be left unfilled. The relevant entries shall be made soon after the said formal application is received.

917. After complying with the requirements of article 916, the Head of Office shall proceed as follows :—

- (1) he shall certify in Form 25-A as to whether the character, conduct and past service of the applicant are such as to entitle him to the favourable consideration of the authority sanctioning the pension. He shall also record therein his own opinion as to whether the service claimed has been established and should be admitted or not. All periods of leave, suspension, etc., which are not reckoned as service should be carefully recorded in section III of second page of Form 25. If the application is for an invalid pension, the requisite medical certificate shall be attached;



- (ii) after obtaining the orders of the pension sanctioning authority in Form 25-A, the Head of Office shall send Forms 25 and 25-A, in original to the Audit Officer, with a covering letter in Form 26 along with the Government servant's service book and service roll, if any, duly completed up to date and any other documents relied upon for the verification of the service claimed, in such a manner that they can be conveniently consulted. He shall retain one copy of each of the above forms for his office record. In cases where payment is desired in another audit circle, Forms 25 and 25-A shall be sent to the Audit Officer in duplicate.

918. (a) If after the pension papers have been forwarded to the Audit Officer, any event occurs which has a bearing on the amount of pension admissible, the fact shall be promptly reported to the Audit Officer by the authority sanctioning the pension.

(b) In cases where the pension papers have been sent to the Audit Officer before the actual date of retirement of the Government servant, a certificate as to the satisfactory nature of service rendered by the Government servant for the period from the date of admitting service by the authority sanctioning the pension to the date of actual retirement together with a copy of the order specifying the actual date of his retirement, shall be forwarded to the Audit Officer within a week from the date on which he retires. At the same time details of any Government dues outstanding against the Government servant, and the steps taken to safeguard the interest of the Government in this behalf shall also be intimated to the Audit Officer.

919. (1) After the pension papers have been sent to the Audit Officer, the Head of Office shall draw provisional pension not exceeding the maximum pension, as may be admissible in each case, and three fourths of the gratuity as indicated by him against item 13 of Form 25 for each pensioner separately at the Treasury at which the pay and allowances are drawn by him and arrange to disburse the pension and gratuity on the first day of the month following the month in which the officer retires from service under intimation to Audit Officer. If the pensioner desires payment through Money Order or Bank draft at the place where he is residing the same shall be remitted to him through Money Order or Bank draft at his cost. Such payment of pension shall continue only for a period of 6 months from the date of retirement of Government servant unless the period is extended by Audit Officer under Art. 920.

(2) The Head of Office, where necessary shall,—

- (a) recover out of the gratuity, an amount equal to two months emoluments representing the Government servant's contribution towards Family Pension Scheme, 1964; and
- (b) take appropriate action for the recovery and adjustment of Government dues as provided in Section IV.

(3) It is open to the Government servant to receive the payment of the balance of the one-fourth of the gratuity either from the Treasury from which payment of final pension is desired by him or from the Head of Office. If the Government servant desires to receive the payment of the balance of the gratuity from the Head of Office, he shall communicate his option in this behalf to the Head of Office, before proceeding on retirement. The Head of Office shall, in such a case, take necessary steps to draw and disburse the gratuity only after the Audit Officer has issued the necessary authority.

(4) The Head of Office shall issue a sanction letter endorsing a copy thereof to the Audit Officer indicating the amount of provisional pension and the three-fourths of the gratuity payable to the Government servant on retirement from service. He shall also indicate in the sanction letter, the amounts to be recovered out of the gratuity. After issue of the sanction letter, he shall take necessary steps to draw and disburse the provisional pension and gratuity. As soon as the provisional payments of pension and gratuity have been completed, the Head of Office shall inform the Audit Officer of the particulars of the aforesaid payments actually made by him.

920. (1) on receipt of pension papers passed on to him under the provisions of article 917, the Audit Officer shall apply the requisite checks and record his audit enforcement on the third page of the application in Form 25. If the pension is payable in his circle of audit, he shall prepare the Pension Payment Order. The

payment of pension shall be effective from the date following the date on which the payment of provisional pension ceases. Arrears of pension, if any, in respect of the period for which pension was drawn and disbursed by the Head of Office shall also be authorised by the Audit Officer.

(2) If the payment of the balance of the gratuity is desired to be made from the Treasury or Sub-Treasury from where the final pension is to be drawn, the Audit Officer shall authorise the payment of the gratuity after adjusting the amount outstanding against the retired Government servant. If the Government servant has opted for receiving the payment of the balance of the gratuity from the Head of Office, the Audit Officer shall issue the necessary authority in this behalf under intimation to the Government servant and the Treasury Officer indicating the amount, if any, which the Head of Office shall adjust before making payment to the Government servant.

(3) The fact of the issue of the Pension Payment Order and order for the payment of the balance of the gratuity shall be promptly reported to the Head of Office and the pension papers which are no longer necessary shall be returned to him.

(4) The adjustment of provisional pension and gratuity drawn and disbursed by the Head of Office shall be made by the Audit Officer in whose circle the provisional payments were made.

(5) If the Audit Officer is unable to assess the amount of final pension and gratuity within a period of six months of the date of retirement of the Government servant, he shall communicate the fact to the Head of Office under intimation to the Treasury Officer concerned, and authorise him to continue to disburse the provisional pension to the pensioner concerned for such period as may be specified by the Audit Officer.

(6) The Audit Officer may authorise the payment of the balance of the gratuity even during the period of the currency of the provisional pension provided that the amount of gratuity has been finally assessed and no recovery of Government dues is outstanding against the Government servant.

(7) If the pension and the balance of the gratuity are to be paid in another circle of audit, the Audit Officer shall send a copy each of Form 25 and Form 25-A alongwith his audit encasement, and the last pay certificate if received, to the Audit Officer of that circle who shall prepare the Pension Payment Order and an order for the payment of balance of gratuity and take further action as indicated in clause (1).

(8) If the amount of provisional pension drawn and disbursed by the Head of Office is found to be in excess of the final pension assessed by the Audit Officer, it shall be open to the Audit Officer to adjust the excess amount out of the balance of the gratuity, if any, or recover the excess amount by short payment of pension payable in future.

(9) If the amount of the gratuity authorised by the Head of Office, proves to be larger than the amount finally assessed by the Audit Officer, the gratuitant shall not be required to refund the excess.

921. The Audit Officer shall record briefly on the second page of Form 25 his reasons for disallowing any service claimed. Any other disallowance shall be recorded in the audit encasement on the third page of Form 25 with reasons therefor.

#### SECTION IV—GOVERNMENT DUES AND SANCTIONING OF PENSION

922. (1) It shall be the duty of every retiring Government servant to clear all Government dues before the date of his retirement.

(2) Where a retiring Government servant does not clear Government dues and these are ascertainable, an equivalent cash deposit may be taken from him, or, out of the gratuity payable to him an amount equal to that recoverable on account of ascertainable Government dues, such as, balance of House Building or Conveyance Advance, arrears of rent and other charges pertaining to occupation of Government accommodation, overpayment of pay and allowances and arrears of income-tax deductible at source under the Income-tax Act, 1961 (43 of 1961), shall be deducted therefrom.

923. (1) If any of the Government dues remain unrealised and unassessed for any reason, the retiring Government servant may be asked to furnish a surety of a suitable permanent Government servant in Form 26-A. If the surety furnished by him is found acceptable, the grant of his pension and gratuity shall not be delayed.

(2) If the retiring Government servant is unable or unwilling to furnish a surety, a suitable cash deposit may be taken from him, or, such portion of the gratuity payable to him as may be considered sufficient may be held over till the outstanding dues are assessed and adjusted. The cash deposit to be taken or the amount of gratuity to be withheld shall not exceed the estimated amount of the outstanding dues plus 25 per cent thereof. In cases where it is not possible to estimate the approximate amount recoverable from the retiring Government servant the amount of the deposit to be taken or the portion of gratuity to be withheld, shall be limited to 10 per cent of the amount of the gratuity or Rs. 1,000, whichever is less.

(3) Efforts shall be made to assess and adjust the recoverable Government dues within a period not exceeding six months from the date of retirement of the Government servant concerned. If no claim is made on Government account against the Government servant within a period of six months from the date of his retirement, it shall be presumed that no Government claim is outstanding against him. In respect of dues pertaining to the occupation of Government accommodation by the Government servant, the period of six months shall reckon from the date of retirement or from the date of complete vacation of the Government accommodation whichever is later. The Government dues as assessed shall be adjusted against the cash deposit or the amount withheld from the gratuity and the balance, if any, shall be released to the pensioner after the expiry of the aforesaid period. Similarly, in cases where a pensioner has furnished a surety, the surety shall be released after the lapse of the period referred to above provided the dues assessed upto that time have been recovered.

(4) Government dues which remain unrealised within the period mentioned in clause (3) and such other dues the claim for which is received after the aforesaid period, shall however, be recoverable from the pensioner."

(c) for the existing Forms 25 and 26, the following Forms shall be substituted, namely:—

FORM. No. 25-C.S.R.

[Articles 911, 912 (f), 915, 916, 917, 919, 920 and 921].

First Page

*Form for Pension and Gratuity.*

(To be sent in duplicate if payment is desired in a different audit circle)

1. Name of Government servant . . . . .
2. Father's name (and also Husband's name in the case of a woman Government servant). . . . .
3. Religion and Nationality . . . . .
4. Permanent residential address showing village/Town, District and State . . . . .
5. Present or last appointment, including name of establishment . . . . .
  - (i) Substantive. . . . .
  - (ii) Officiating, if any . . . . .
6. Class of Pension or Service Gratuity applied for and cause of application . . . . .
7. Pension Rules opted/eligible . . . . .
8. Governments under which service has been rendered (in order of employment) . . . . .
9. Period of Service qualifying for pension :
  - (a) Period of Civil Service . . . . .
  - (b) Period of War/Military Service . . . . .

- (c) Amount and nature of any pension/gratuity received for Military service . . . . .
- (d) Amount and nature of any pension/gratuity received for Civil Service . . . . .
10. (a) Average emoluments . . . . .
- (b) Emoluments for Gratuity . . . . .
11. Pay as defined in F. R. 9(21). . . . .
12. Proposed Pension . . . . .
13. Proposed Gratuity . . . . .
14. Whether the Family Pension Scheme, 1964, is applicable, if so amount of life time family pension becoming payable to the entitled members of the family of the Government servant, in the event of his/her death . . . . .
15. Date from which pension is to commence . . . . .
16. Place of payment of
- (a) Pension (Treasury/Sub-Treasury) . . . . .
- (b) Gratuity (Treasury/Sub-Treasury/Head of the Office) . . . . .

NOTE.—Non-gazetted retiring Government servants can opt for receiving the entire amount of gratuity through the Head of Office.

17. Whether nomination made for :
- (i) Family Pension under the Liberalised Pension Rules, 1950, if applicable . . . . .
- (ii) Death-cum-retirement Gratuity . . . . .
18. Whether Government servant has paid all the Government dues (See Section IV of Chapter XLVII) . . . . .
19. Date of birth by Christian era of,—
- (i) Government servant . . . . .
- (ii) Government servant's wife/husband . . . . .
20. Height . . . . .
21. Identification Marks . . . . .
- \*22. Thumb and finger Impressions,—

*Thumb*

*Forefinger*

*Middle finger*

*Ring finger*

*Little finger*

- (i) of Government servant . . . . .
- (ii) of Government servant's wife/husband . . . . .
23. Date on which the Government servant applied for pension in Form 30 . . . . .

*Signature of Head of Office/Department.*

*(Audit Officer)@*

\*Persons who are literate enough to sign their names in English, Hindi or the Official Regional Language, are exempted from recording their left-hand thumb and finger impressions provided they furnish certified copies of passport-size photographs.

@In case of Gazetted Government servants only.

Second Page

Details of Service of Shri/Shrimati/Kumari.....

Date of birth.....

SECTION I

Establish- ment	Appoint- ment	Officiating/ Substan- tive	Date of beginning	Date of ending	Period re- ckoning as service	Period not reckoning as service	Remarks by the Audit Officer
1	2	3	4	5	6	7	8
					Yrs. Mths Ds.	Yrs. Mths Ds.	

Total period of service

NOTE.— Date of commencement and date of ending of each period of military service, if any, should also be indicated in this section.

SECTION II

*Emoluments drawn during the last \*three Years*

Post held	From	To	Pay	Personal/Special pay
-----------	------	----	-----	----------------------

Average emoluments :—

\* In a case where the last three years includes some periods not to be reckoned for calculating average emoluments an equal period backwards has to be taken for calculating the average emoluments.

SECTION III

*Period(s) of non-qualifying service*

	From	To
1. Interruption(s) . . . . .		
2. Extraordinary leave not qualifying for pension . . . . .		
3. Period of suspension not treated as qualifying . . . . .		
4. Any other service not treated as qualifying . . . . .		

TOTAL



*Second Page (contd.)*

## SECTION IV

Period of service not verified with reference to Acquittance  
Rolls . . . . .

Whether the above period verified in accordance with the  
provisions of article 915 (c) and if not whether the necessity  
of verification of the aforesaid period of service dispensed  
with under orders of the appropriate authority . . . . .

*Third Page**(1) Audit Encasement.*

1. Total period of qualifying service which has been accepted for the grant of superannuation/retiring/invalid/compensation pension/gratuity, with reasons for disallowance, if any, (other than disallowance indicated in Second page) . . . . .

NOTE.— Service for the period commencing from . . . . .  
and upto the date of retirement has not yet  
been verified; this should be done before the  
pension payment order is issued.

2. Amount of superannuation/retiring/invalid/compensation pension /gratuity, that has been admitted.
3. Amount of the superannuation/retiring/invalid/compensation pension/gratuity, admissible after taking into account reduction, if any, in pension and gratuity made by the authority sanctioning pension . . . . .
4. Total period of qualifying service which has been approved for the grant of special additional pension.
5. The amount of special additional pension, if any, admitted under the rules . . . . .
6. The date from which the special additional pension is admissible . . . . .
7. The date from which the superannuation/retiring/invalid/compensation pension/gratuity is admissible.
8. Head of Account to which the superannuation/retiring/invalid/compensation and special additional pension/gratuity is chargeable . . . . .
9. The amount of life-time family pension becoming payable to the entitled members of family in the event of death of the Government servant after retirement . . . . .

*Accounts Officer.*

*Assistant Accountant General.*

*Back of the Third Page*

1. Date of submission of Pension Application by the Government servant . . . . .
2. Name of Government servant . . . . .
3. Class of pension or gratuity . . . . .
4. Sanctioning authority . . . . .
5. Amount of pension sanctioned . . . . .
6. Amount of gratuity sanctioned . . . . .
7. Date of commencement of pension . . . . .
8. Date of sanction . . . . .

*Back of the Third Page (contd.)*

9. Amount of Family Pension admissible in the event of death of Pensioner . . . . .
10. Amount to be recovered from gratuity under para 7 of the Family Pension Scheme, 1964 . . . . .
11. Government dues held over from the gratuity . . . . .

*Fourth Page*

*Instructions*

1. *Calculation of average emoluments.*—The calculation of average emoluments, mentioned at item 10 of the First Page should be based on the actual number of days contained in each month.

2. *Compensation pension or gratuity.*—(a) If the application is for a compensation pension or gratuity the particulars of the savings affected should be duly stated against item 6 of the First Page.

(b) State why employment was not found elsewhere.

3. *History of service.*—(a) Give date, month and year of the various appointments, promotions and cessations. For the purpose of adding towards broken periods, a month is reckoned as thirty days.

(b) All periods not reckoned as service should be distinguished and reasons for their exclusions given in the remarks column.

4. *Identification Marks.*—Specify a few conspicuous marks, not less than two if possible.

5. *Name.*—When initials or name of Government servant are incorrectly given in the various records consulted, mention this fact 'in the letter forwarding the pension papers to avoid unnecessary reference from Audit Officer.

6. *Date of Retirement.*—Shown in the Service Book, and the Last Pay Certificate.

7. *Reinstatement.*—In the case of an officer who has been reinstated after having been suspended, compulsorily retired, removed or dismissed, brief statement leading to his reinstatement should be appended.

8. *Alterations.*—Make in red ink under dated initials of a gazetted Government servant.

9. *Calendar Month.*—The following examples show how a period stated in calendar months should be calculated:—

*Examples.*—A period of six calendar months

beginning on the	ends on the
28th February . . . . .	27th August.
31st March or 1st April . . . . .	30th September.
29th August . . . . .	28th February.
30th August or 1st September . . . . .	Last day of February.

A period of three calendar months.—

beginning on the	ends on the
29th November . . . . .	28th February.
30th November or 1st December . . . . .	Last day of February.

FORM No. 25-A, C.S.R.  
(Articles 909, 912, 917 and 920)

*Form for sanctioning Pension*

(To be sent in duplicate if payment is desired in a different audit circle)

1. Name of the Government servant . . . . .
2. Father's name (and also husband's name in the case of a woman Government servant) . . . . .

3. (a) Present or last appointment, including name of establishment:

(i) Substantive. . . . .

(ii) Officiating, if any . . . . .

(b) Remarks by the Receiving Authority. . . . .

1. As to Character and past conduct of Government servant . . . . . Good/Fair/Indifferent/Bad

2. Explanation of any suspension or degradation . . . . .

3. Any other remarks . . . . .

4. Specific opinion of the Receiving Authority whether the service claimed is established and should be admitted or not. . . . .

(c) *Orders of the pension Sanctioning Authority.*

The undersigned having satisfied himself that the service of Shri/Shrimati/Kumar . . . . . has been thoroughly satisfactory hereby orders the grant of the full pension, death cum-retirement gratuity, service gratuity which may be accepted by the Audit Officer as admissible under the rules.

Or

The undersigned having satisfied himself that the service of Shri/Shrimati/Kumar . . . . . has not been thoroughly satisfactory hereby orders that the full pension and/or gratuity which may be accepted by the Audit Officer as admissible under the rules shall be reduced by the specified amount or percentage indicated below, —

Amount or percentage of reduction in pension . . . . .

Amount or percentage of reduction in gratuity . . . . .

The grant of pension and/or gratuity shall take effect from . . . . .

(d) In the event of death of Shri/Shrimati . . . . . a family pension of Rs. . . . . will be admissible to Shrimati/Shri . . . . . as admissible under the Family Pension Scheme, 1964.

(e) In terms of para 7 of the aforesaid Scheme he/she is required to contribute a portion of gratuity equal to two months emoluments or pay, as the case may be. Necessary recovery out of the gratuity payable to Shri/Shrimati . . . . . has been/may be made.

\*(f) A sum of Rs. . . . . on account of . . . . . is to be held over from the gratuity till the outstanding Government dues are assessed and adjusted.

(g) The following service of the Government servant has been approved for the grant of special additional pension admissible under the Rules:—

Post/Posts held . . . . .

Period of Service . . . . .

The pension, and gratuity, are payable at . . . . . Treasury/Sub-Treasury and are Chargeable to the Head . . . . .

This order is subject to the condition that if the amount of pension and/or gratuity as authorised be afterwards found to be in excess of amounts to which the pensioner is entitled under the rules, he/she shall be called upon to refund such excess.

Dated . . . . .

*Signature and Designation of the Pension Sanctioning Authority.*

\*No amount of the gratuity need be held over if the Government servant has made a cash deposit or furnished a surety of a permanent Government servant in terms of article 923.

*Second Page*

(To be used in the case of Government servants to whom Section III of Chapter XLVII applies)

*Details of provisional pension and gratuity to be drawn by the Head of Office in accordance with the procedure laid down in article 919.*

Provisional pension . . . . . Rs. p.m.

Gratuity (3/4th of the full gratuity mentioned against item 13 of Form 25) . . . . . Rs.

*Less*

(i) Contribution towards Family Pension Scheme, 1964 [see item 3(e) of the Form] . . . . . Rs.

(ii) Amount held over for adjustment of Government dues [see item (f) of the Form] . . . . . Rs.

Net amount of gratuity to be paid provisionally . . . . . Rs.

*Signature of Head of Office.*

FORM No. 26 C.S.R.

(Article 917)

*Form of letter to the Audit Officer forwarding the pension papers of a Government servant.*

No.

Government of India

Ministry of

Department/Office

*Dated, .....*

To

The Accountant General/Pay and Accounts Officer.

Sir,

I am directed/have the honour to forward herewith the pension papers of Shri/Shrimati/Kumari..... of this Office/Department as per list for further necessary action.

Yours faithfully,

*Head of Office.*

*List of enclosures.*

1. Form 25..... with details of service, etc., and Form 25-A containing the orders of the pension sanctioning authority.
2. Medical certificate for invalidation (if the claim is for invalid pension).
3. Service Book.
4. Memorandum of average emoluments reckoning for pension.
5. Last Pay Certificate.

6. (a) Two specimen signatures duly attested by Gazetted Government servant or in the case of pensioner not literate enough to sign his name, two slips bearing the left hand thumb and finger impressions, duly attested by a Gazetted Government servant, and
- (b) Three copies of joint passport size photographs with wife/husband duly attested by the Head of Office.
7. Formal application for pension in Form 30.
8. Explanation for delay, if any, beyond one month from the date of retirement of the Government servant in forwarding Forms 25 and 25-A.
9. When the fact of service in another office is not satisfactorily attested in the Service Book duly certified abstract from the Head of Office.
10. Statement of the applicant and collateral evidence as required under article 915 duly accepted by the authority competent to sanction the pension.

FORM No. 26-A C.S.R.  
(Article 923)

*Form of Surety Bond.*

In consideration of the President of India (hereinafter called the "Government" which expression shall include his successors and assigns) having agreed to settle the final accounts of Shri/Shrimati.....without production of a "No Demand Certificate from the Director of Estates, I hereby stand surety (which expression shall include my heirs, executors and administrators) for payment by the said.....of rent and other dues in respect of residence now allotted to him by Government and also for any residence that may be allotted or that was allotted to the said.....from time to time by Government. I, the surety, further agree and undertake to indemnify the Government against all loss and damage until delivery of vacant possession of the above-said residence is made over to Government.

I hereby also stand surety for any amounts that may be due by the said.....to Government by way of overpayment of pay, allowances, leave salary, advances for conveyance, house-building or other purposes, or any other dues.

The obligation undertaken by me shall not be discharged or in any way affected by an extension of time or any other indulgence granted by Government to the said.....

This guarantee shall remain in force till,—

- (i) the "No Demand Certificate" is issued by the Director of Estates in favour of the said.....
- (ii) the Head of Office in which the said.....was last employed and in case he/she was drawing pay and allowances on Gazetted Government servants bill forms the concerned Audit Officer has/have certified that nothing is now due to the Government from the said.....

The stamp duty on this instrument shall be borne by Government.

Signature of the Surety.

Signed and delivered by the said surety at.....  
this.....day of.....in the presence of:

1. Signature.....  
Address and occupation of witness.....
2. Signature.....  
Address and occupation of witness.....

Certified that Shri/Shrimati.....is a permanent Government servant.

Signature of the Head of  
Department or Office in which  
the surety is employed.

(Signature and designations)  
for and on behalf of the  
President of India.

This bond is hereby accepted.

[No. 6(2) EV/66]

S. P. MAHNA, Dy Secy.



(Department of Economic Affairs)

New Delhi, the 30th August 1969

S.O. 3653.—In exercise of the powers conferred by section 53 read with section 56 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-Section (1) of section 11 of the said Act, shall not apply to the Chandigarh State Co-operative Bank Ltd., Chandigarh for a period of one year with effect from 1st March, 1969.

[No. F. 18/4/69-SB.]

वित्त मंत्रालय

(अर्थ विभाग)

नई दिल्ली, 30 अगस्त, 1969

एस० नो० 3654.—बैंकिंग विनियमन अधिनियम, 1949, (1949 के दसवें अधिनियम) की धारा 56 के साथ पठित धारा 53 के द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए, केन्द्रीय सरकार भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा यह घोषित करती है कि उपर्युक्त अधिनियम की धारा 11 की उप-धारा (1) के उपबन्ध, चंडीगढ़ राज्य सहकारी बैंक लिमिटेड चंडीगढ़, पर पहली मार्च, 1969 से एक वर्ष तक की अवधि के लिए लागू नहीं होंगे।

[संख्या एफ० 18(4)/69-एस० बी०]

के० येसुरत्नम, अनु-सचिव।

New Delhi, the 3rd September 1969

S.O. 3655.—Statement of the Affairs of the Reserve Bank of India as on the 29th August, 1969.

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up	5,00,00,000	Notes	22,69,13,000
		Rupee Coin	8,59,000
Reserve Fund	150,00,00,000	Small Coin	4,88,000
National Agricultural Credit (Long Term Operations) Fund	155,00,00,000	Bills Purchased and Discounted:	
		(a) Internal	..
		(b) External	..
		(c) Government Treasury Bills	186,20,87,000
National Agricultural Credit (Stabilisation) Fund	35,00,00,000	Balances Held Abroad*	179,22,55,000
		Investments**	177,69,87,000
National Industrial Credit (Long Term Operations) Fund	75,00,00,000	Loans and Advances to:—	
		(i) Central Governments	
		(ii) State Governments @	48,87,17,000

Deposits —		Loans and Advances to —	
(a) Government		(i) Scheduled Commercial Banks†	51,38,75,000
(i) Central Government	51,35,46,000	(ii) State Co-operative Banks††	229,13,79,000
(ii) State Government	7,03,38,000	(iii) Others	1,86,08,000
(b) Banks		Loans, Advances and Investments from National Agricultural Credit (Long Term Operations) Fund	
(i) Scheduled Commercial Banks	207,79,02,000	(a) Loans and Advances to :—	
(ii) Scheduled State Co-operative Banks	8,96,02,000	(i) State Governments	31,46,88,000
(iii) Non-Scheduled State Co-operative Banks	57,15,000	(ii) State Co-operative Banks	15,88,16,000
(iv) Other Banks	30,57,000	(iii) Central Land Mortgage Banks	..
(c) Others	236,78,93,000	(b) Investment in Central Land Mortgage Bank Debentures	8,96,93,000
Bills Payable	35,89,26,000	Loans and Advances from National Agricultural Credit (Stabilisation) Fund:—	
Other Liabilities	30,92,12,000	Loans and Advances to State Co-operative Banks .	
		Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund:—	
		(a) Loans and Advances to the Development Bank	6,26,71,000
		(b) Investment in bonds/debentures issued by the Development Bank	
		Other Assets	34,10,38,000
	Rupees		Rupees
	999,61,91,000		999,61,91,000

\*Includes Cash, Fixed Deposits and Short-term Securities.

\*\*Excluding investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

@Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund but including temporary overdrafts to State Governments.

†Includes Rs. 31,00,00,000 advanced to scheduled commercial banks against usance bills under section 17(4) (c) of the Reserve Bank of India Act.

††Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 3rd day of September, 1969.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 29th day of August, 1969

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department . . .	22,69,13,000		Gold Coin and Bullion:—		
Notes in circulation . . .	<u>3467,81,24,000</u>		(a) Held in India . . .	182,53,11,000	
Total Notes issued . . .		3490,50,37,000	(b) Held outside India . . .	..	
			Foreign Securities . . .	<u>200,88,70,000</u>	
			TOTAL . . .		383 41,81,00
			Rupee Coin . . .		74,32,51,000
			Government of India Rupee Securities		<u>3032,76,05,000</u>
			Internal Bills of Exchange and other		..
			Commercial paper . . .		
Total Liabilities . . .		<u>3490,50,37,000</u>	Total Assets: . . .		<u>3490,50,37,000</u>

Dated the 3rd day of September, 1969.

(sd.) L. K. JHA,  
Governor.

[No. F. 3(3)-BC/69.]

*New Delhi, the 6th September 1969*

**S.O. 3656.**—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declare that the provisions of section 9 of the said Act shall not apply to the New Bank of India Ltd., New Delhi, till the 5th September 1970, in respect of the agricultural lands measuring 2493.33 square yards held by it at Batala Road, Amritsar.

[No. F. 15(23)-BC/68]

K. YESURATNAM, Under Secy.

**(Department of Revenue and Insurance)**

**CUSTOMS**

*New Delhi, the 6th September 1969*

**S.O. 3657.**—In exercise of the powers conferred by clause (a) of section 7 of the Customs Act, 1962, (52 of 1962), the Central Government hereby appoints the port at Veppalodai in the State of Tamil Nadu as a Customs port for the unloading of imported goods and the loading of export goods.

[No. 123. F. No. 8/3/68-LC.II.]

(राजस्व और बीमा विभाग)

सीमाशुल्क

नई दिल्ली, 6 सितम्बर, 1969

**एस० ओ० 3658.**—सीमा-शुल्क अधिनियम, 1962 (1962 का 52) की धारा 7 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार आयात किए गए माल की उतराई और निर्यात किए जाने वाले माल की लवाई के लिये तामिल नाडु राज्य के वेप्पलोदाई पोर्टन को सीमा-शुल्क-पोर्टन के रूप में एतद द्वारा नियत करती है।

[सं० 123-एफ सं० 8/3/68-एल० सी II]

पी० के० कपूर,

अवर सचिव।

**STAMPS**

*New Delhi, the 13th September 1969*

**S.O. 3659.**—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the debentures to the value of two crores of rupees to be issued by the Maharashtra Housing Board are chargeable under the said Act.

[No. 8/69-Stamps/F.No. 1/28/69-Cus.VII.]

P. K. KAPOOR, Under Secy.

**(Department of Revenue and Insurance)**

**INCOMETAX DEPARTMENT**

*Nagpur, the 29th July 1969*

**S. O. 3660.**—Whereas the Central Government is of the opinion that it is necessary and expedient in public interest to publish the names and other particulars of the assesseses :

- (i) being individuals or Hindu Undivided Families, who have been assessed on an income of more than one lakh of rupees;



- (ii) being Firms, Associations of Persons or Companies, who have been assessed on an income of more than ten lakhs of rupees, during the financial year 1967-68 and has, therefore, in exercise of the powers conferred by Section 287 of the Income-tax Act, 1961 (43 of 1961), directed that the names and other particulars of the assesses aforesaid be published, the same are hereby published in Schedules I and II, hereto annexed :—

## SCHEDULE I

*Names of all Individuals and hufs assessed on income of over Rs. 1 lakh during the financial year 1967-68.*

S. No.	Name and address of the assessee	Status	Assessment year	Income assessed under Income-tax Act, 1961	Remarks
1	2	3	4	5	6
1	M/s. Bhagatram Santram, Bilaspur.	H.U.F.	1958-59	1,40,000	
2	Shri B. B. J. Seth, Simrol Road, Mhow.	Individual	1963-64	1,08,915	
3	M/s. Baburao Pimplapure, Sagar, C/o. M/s. Vrijlal Manilal, Sagar.	Do.	1963-64	3,32,104	
4	Shri Balbhadra Singh C/o M/s. Baktawar Singh Balbhadra Singh, Jagdalpur.	Do.	1963-64	1,03,468	
5	Shri Chitnavis G. M. Chitnavis-pura, Nagpur.	H. U. F.	1963-64	1,65,745	
6	Shri Chintamanrao Balaji, Sagar.	Individual	1963-64	3,47,279	
7	M/s. Chaganlal Mittal, Sitalmata Bazar, Indore.	H.A.F.	1963-64	1,89,900	
8	Shri Devendra Kumar Patel, C/o M/s. Vrijlal Manilal, Sagar.	Individual	1963-64	2,95,820	
9	Shri Gulabdas Agarwal	Do.	1966-67	1,00,474	
10	Shri Gangadas Kothari, Raipur.	Do.	1963-64	1,07,453	
11	Shri Gopaldas, C/o M/s. Udhoji Shrikrishandas, Satna.	Do.	1963-64	1,01,592	
12	Shri Gangadas Kothari, C/o Gango Steel Re-Rolling Mill, Raipur.	Do.	1964-65	1,74,543	
13	Hazarilal Devkishan, Piparia	Do.	1963-64	1,12,906	
14	Smt. Jyotisna Devi, P. Jabalpur	Do.	1963-64	1,11,761	
15	Do.	Do.	1964-65	1,12,725	
16	Do.	Do.	1965-66	1,04,252	
17	Shri J. T. Joshi, Ramdaspath, Nagpur.	Do.	1963-64	1,37,4206	
18	Shri Kharabe, D. S. C/o. M/s. Kharabe & Co., Cotton Market, Nagpur.	Do.	1963-64	3,14,351	
19	Shri Kanhaiyalal Jassaram, Usha Ganj, Indore.	Do.	1963-64	2,20,000	
20	Do.	Do.	1962-63	1,15,710	
21	M/s. Kishanlal Thakurdas, Bilaspur.	H.U.F.	1958-59	1,40,000	
22	Shri Mohd. Hanif, Partner of M/s. K. M. Hanif, Ibrahim-pura, Bhopal	Individual	1963-64	1,61,699	
23	Shri Mohd. Islam, Do.	Do.	1963-64	1,10,818	
24	Shri Mohd. Aziz, Do.	Do.	1963-64	1,03,418	
25	Shri Madanlal Agarwal, Lashkar	Do.	1947-48 1948-49 1949-50	3,45,833 2,36,029 4,29,779	

1	2	3	4	5	6
26	Shri Madhukar Rao Pimplapure, C/o. M/s. Vrijlal Manilal, Sagar	Individual	1963-64		2,80,924
27	Shri Madhoji, C/o M/s. Udhoji Shrikrishandas, Satna	Do.	1963-64		1,00,749
28	Shri Mohd. Hanif, Legal heirs of late Shri Kalekhan Jum- man Khan, Partner of M/s. K. M. Hanif, Ibrahimipura, Bhopal	Do.	1963-64		1,63,406
29	Shri H. H. Maharaja Martand Singh Ju Deo of Rewa	Do.	1955-56		1,92,193
30	Shri Manak Chand Navin Chand, Indore	Do.	1963-64		1,32,115
31	Shri Macabhai Motilal Agarwal, Shamgarh	Do.	1964-65		1,01,840
32	Shri Narendra Kumar Patel, C/o M/s. Vrijlal Manilal, Sagar	Do.	1963-64		2,84,460
33	Shri N. C. Zamindar, Raoji Bazar, Indore	Do.	1963-64		1,18,850
34	Shri Narayandas, C/o M/s. Udhoji Shrikrishandas, Satna	Do.	1963-64		1,03,356
35	Shri O. S. Gupta, Ratlam	Do.	1963-64		4,62,530
36	Shri Paramanndbhai, Jabalpur	Do.	1963-64		24,13,785
37	Do.	Do.	1964-65		14,91,841
38	Shri Purshotamdas Modra, Raigarh	Do.	1956-57		5,82,580
			1957-58		5,81,276
			1963-64		3,72,487
39	Shri Rishi J. C., Bilaspur	Do.	1963-64		6,94,638
40	Shri R. C. Jall, Murai Mohalla, Indore	Do.	1963-64		5,84,086
41	Ratanchand Bhounath, Jabalpur	H. F.	1963-64		2,39,879
42	Shri R. B. Gaur, Katni	Individual	1963-64		1,26,827
43	Ratilal Manakji, Burhanpur, Distt. Khandwa	H.U.F.	1964-65		1,54,623
44	Do.	Do.	1965-66		1,07,680
45	Do.	Do.	1966-67		1,06,580
46	Shri Sial I. S., New Colony, Nag- pur	Individual	1963-64		2,87,931
47	Shri S. Sanyal, Itwari, Nagpur.	Do.	1963-64		1,51,817
48	Shri Sadiq Bhai C/o. M/s. Sadiq & Co., Mount Rd. Nagpur	Do.	1963-64		1,53,496
49	Shri Sial M. S., Jabalpur	Do.	1963-64		1,03,892
50	Shri Sidharath Kumar, Jabal- pur	Do.	1963-64		1,28,274
51	Shri Shrawan Kumar Patel, Jabalpur	Do.	1963-64		1,13,510
52	Do.	Do.	1964-65		1,98,841
53	Do.	Do.	1965-66		12,72,239
54	Shrikrishandas C/o. M/s. Udhoji Shrikrishandas, Satna	Do.	1963-64		1,00,990
55	Shri Shakir Hussain (deceased) Legal Heirs, Shri Abdul Kadar, Mosan Hussain, Smt. Shakinabai & Amna Bai, Damoh	Do.	1948-49		5,86,824
56	Shri Sheonarayan Prabhudayal, Seoni.	H.U.F.	1956-57		1,45,841
57	Do.	Do.	1957-58		2,44,848
58	M/s. S. R. Kalani, M. G. Road, Indore	Do.	1963-64		1,36,325
59	Smt. Ujjambai, Jabalpur	Individual	1964-65		14,26,988
60	Do.	Do.	1963-64		22,74,537
61	Do.	Do.	1965-66		20,04,365

1	2	3	4	5	6
62	H. Maharani Ushadevi, Manik Bagh Palace, Indore	Individual	1963-64	3,27,561	
63	Shri Yusuf Ghani, Central Avenue Road, Nagpur	Do.	1963-64	1,20,127	
64	Shri Zoeb Bhai C/o. M/s. Sadique & Co., Mount Road, Nagpur.	Do.	1963-64	1,22,496	

## SCHEDULE II

*Names of all firms, Associations of persons and companies assessed on income of over Rs. 10 lakhs during the financial year 1967-68*

S. No.	Name & Address of the assessee	Status	Assessment year	Income assessed under the Income tax Act, 1961	Remarks
1	2	3	4	5	6
1	The Central Provinces Mangane Ore Co. Ltd., Nagpur	Company	1963-64	49,79,168	
2	M/s. Gwalior Rayon Silk Mfg. (Wvg.) Co. Ltd., Birlagram, Nagda	Do.	1963-64	2,27,53,250	
3	M/s. Mohanlal Hargovind, Jabalpur	R.F.	1963-64	45,36,175	
4	Do.	Do.	1964-65	32,72,242	
5	Do.	Do.	1965-66	31,96,664	
6	National News Print & Paper Mills, Nepanagar	Company	1965-66	68,25,353	
7	The Perfect Pottery Co. Ltd., Jabalpur	Do.	1964-65	10,36,227	
8	M/s. Rajkumar Mills, Indore	Do.	1963-64	13,45,101	
9	M/s. Sajjan Mills, Ratlam	Do.	1963-64	14,34,340	
10	M/s. Vrijlal Manilal & Co., Sagar	R. F.	1963-64	15,14,756	

[No. C.S. 9/68-69.]

V. R. BAPAT,

Commissioner of Income-tax,  
Madhya Pradesh, Nagpur and Bhandara,  
Nagpur.

**CENTRAL BOARD OF DIRECT TAXES**

*New Delhi, the 28th June 1969*

**INCOME—TAX**

**S.O. 3661.**—In exercise of the powers conferred by sub-section (1) of Section 122 of the Income-tax Act, 1961 (43 of 1961) and of all other powers enabling it in that behalf the Central Board of Direct Taxes hereby makes the following amendments in the Schedule appended to its notification No. 98 (F. No. 50/9/68-ITJ) dated 8-10-68, namely :—

In the said schedule against the Ranges shown below in Column 1, the following shall be substituted under column 2, namely :—

**SCHEDULE**

Range	Income-tax Circles, Wards and Districts
1	2
A—Range, Ahmedabad . . . .	1. Group Circle I(1), Ahmedabad. 2. Group Circle I(1), Ahmedabad. 3. Group Circle 1(4), Ahmedabad. 4. Circle III, Ahmedabad. 5. Circle V, Ahmedabad. 6. Special Investigation Circle 'B' Ahmedabad. 7. Special Investigation Circle 'A', Ahmedabad.
B—Range, Ahmedabad . . . .	1. Group Circle III(1), Ahmedabad. 2. Group Circle III(3), Ahmedabad. 3. Circle IV, Ahmedabad. 4. Circle IX, Ahmedabad. 5. Central Circle, Ahmedabad.
E—Range, Ahmedabad . . . .	1. Circle II, Ahmedabad. 2. Circle VIII, Ahmedabad. 3. Group Circle 1(3), Ahmedabad.
F—Range, Ahmedabad . . . .	1. Circle X, Ahmedabad. 2. Petlad. 3. Mehsana. 4. Palanpur. 5. Patan. 6. Group Circle III(2), Ahmedabad.
A—Range, Baroda . . . .	1. A, B, C, D Wards Baroda. 2. Godhra.
B—Range, Baroda . . . .	1. E, F, G, H, I, J, K, and L, Wards, Baroda. 2. Breach. 3. Bulsar.

This notification shall take effect from 1st July, 1969.

*Explanatory Note*

The amendments have become necessary on account of reorganisation of AACs' jurisdiction in the Commissioner's charge.

(The above note does not form a part of the notification, but is intended to be merely clarificatory).

[No. 87 (F. No. 50/40/69-ITJ)].  
S. V. SUBBA RAO, Under Secy.

## केन्द्रीय प्रत्यक्ष कर बोर्ड

## आयकर

नई दिल्ली, 28 जून, 1969

एस० ओ० 3662.—संख्या 87 (फा० सं० 50/40/69-आई० टी० जे०) : आयकर अधिनियम, 1961 (1961 का 43) की धारा 122 की उपधारा (1) द्वारा प्रदत्त शक्तियों और इस निमित्त अपने को समर्थ बनाने वाली अन्य सभी शक्तियों का प्रयोग करते हुए केन्द्रीय प्रत्यक्ष कर बोर्ड अपनी अधिसूचना संख्या 98 (फा० सं० 50/9/68-आई० टी० जे०) तारीख 8 अक्टूबर, 1968 से मन्गन अनुसूचि में एतद्द्वारा निम्नलिखित संशोधन करता है, अर्थात्

उक्त अनुसूचि के स्तम्भ 1 के नीचे दिखाए गए रेंजों के सामने स्तम्भ 2 के नीचे निम्नलिखित प्रतिस्थपित किया जाएगा, अर्थात्—

## अनुसूची

रेंज 1	आयकर सिकिल, वार्ड और जिले 2
क. रेंज अहमदाबाद	1. ग्रुप सिकिल 1 (1), अहमदाबाद 2. ग्रुप सिकिल 1 (2) अहमदाबाद 3. ग्रुप सिकिल 1 (4), अहमदाबाद 4. सिकिल, III, अहमदाबाद 5. सिकिल, अहमदाबाद 6. विशेष अन्वेषण सिकिल "ख" अहमदाबाद 7. विशेष अन्वेषण सिकिल "क" अहमदाबाद
ख. रेंज, अहमदाबाद	1. ग्रुप सिकिल III (1) अहमदाबाद 2. ग्रुप सिकिल III (3) अहमदाबाद 3. सिकिल, IV अहमदाबाद 4. सिकिल, XI अहमदाबाद 5. केन्द्रीय सिकिल, अहमदाबाद
ज. रेंज, अहमदाबाद	1. सिकिल, II अहमदाबाद 2. सिकिल VIII, अहमदाबाद 3. ग्रुप सिकिल 1 (3), अहमदाबाद
घ. रेंज, अहमदाबाद	1. सिकिल X, अहमदाबाद 2. पटलद 3. मेहसाना 4. पालनपुर 5. पाटन 6. ग्रुप सिकिल III (2), अहमदाबाद



1	2
क. रेंज, बड़ौदा	1. क, ख, ग, घ, वाई, बड़ौदा 2. गोधरा
ख. रेंज, बड़ौदा	1. ड०, च०, छ, ज, झ, ञ, ट, और ठ वाई, बड़ौदा 2. बरोच 3. बुलसर

यह अधिसूचना 1 जुलाई, 1969 से प्रभावी होगी।

### स्पष्टीकरण टिप्पण

ये संशोधन सहायक आयुक्त अपील की अधिकारिता के, जो आयुक्त के भारसाधन में है, पुन-संगठन के कारण आवश्यक हो गए हैं।

(उपरोक्त टिप्पण अधिसूचना का भाग नहीं है बल्कि उसका आशय केवल स्पष्टीकरण करना है)

[सं० 87 (फा० सं० 50/40/69 आई० टी० जे०)]

एस० बी० सुब्बा राव,  
अवर सचिव, केन्द्रीय प्रत्यक्ष कर बोर्ड।

## OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, HYDERABAD

### CENTRAL EXCISE

Hyderabad, the 30th August 1969

S.O. 3663.—In exercise of the powers conferred on me by rule 173H of the Central Excise Rules, 1944, I hereby direct the assessee manufacturing Refrigerating and Air Conditioning appliances and machinery to maintain a Job card in the form appended below, in addition to the Register maintained under Rules 97, 97-A, 173-H and 173-L in respect of duty paid Refrigerating and Air Conditioning appliances and machinery received within the factory premises for reprocessing, repairs, servicing etc.,

### Job Card

Name and address of the assessee :—

Repairs/Reconditioning Record.

- (1) Serial No. and date of entry in Excise Register in Form V:—
- (2) Description of goods:—
- (3) Marks and Numbers:—
- (4) Nature of repairs/reconditioning:—
- (5) Charges made for repair with Bill No. and Date:—

- (6) Dutiable spare parts utilised:—  
 (7) Date of completion of repairs/reconditioning:—  
 (8) Delivery ticket No. and date on which returned to service department.—

Signature of Foreman/  
 Supervisor Repair shop.

When the duty paid goods received within the factory for repairs, service, etc., are sent to a particular section, then the same should be covered by a job card prescribed above. The Job Cards should be filed serially, date wise indicating the corresponding entry numbers in form V.

(C. No. V29-A/30/12/69.M.P.)

[No. 6/69.]

M. L. ROUTH, Collector.

### COLLECTORATE OF CENTRAL EXCISE : POONA

#### CENTRAL EXCISES

Poona, the 25th August, 1969

**S. O. 3664.**—In exercise of the powers vested in me under Rule 5 of the Central Excise Rules, 1944, I empower all officers of Central Excise in the Poona Central Excise Collectorate specified in Column 3 of the table below to exercise within their respective jurisdiction the powers of Collector under the Central Excise Rules mentioned in Column 2 of the table subject to the limitations in Column 4 thereof.

TABLE

S. No.	CEx. Rules	Rank of Officers	Limitations, if any.
1	2	3	4
1	96ZH(1)	All Officers of & above the rank of Supdt. of Central Excise.	First ASP (application) shall be accepted by the officers not below the rank of Asst. Collr.
2	96ZH(2)	All Officers of & above the rank of Asst. Collr.	
3	96ZH(4)	All Officers of & above the rank of Supdt. of Central Excise.	(a) Power of accepting renewal application in form ASP shall be exercised by Supdt. CEx. (b) (i) Where delay in presenting the ASP is not more than 10 days, the supdt. C. Ex. shall exercise power of condoning the delay. (ii) Where delay in presenting the ASP exceeding 10 days A. C. C. E shall exercise the power.
4	96ZH (5)	All Officers of and above the rank of Asstt. Collr. C. Ex.	—
5	96ZI (4)	All Officers of and above the rank of Asstt. Collr. C. Ex.	—
6	96ZL(i)	Adjudicating Officers	To demand duty, to confiscate goods and to impose penalty in accordance with their limits of adjudication powers.

[No. G.E.R. No. 5/69]

D. N. LAL,  
 Collector of Central Excise, Poona.

**MINISTRY OF FOOD, AGRICULTURE, COMMUNITY DEVELOPMENT AND COOPERATION**

**(Department of Food)**

*New Delhi, the 5th September 1969*

**S.O. 3665.**—In exercise of the powers conferred by Section 42 of the Warehousing Corporation Act, 1962 (58 of 1962), the Central Warehousing Corporation, with the previous sanction of the Central Government, hereby makes the following regulations further to amend the Central Warehousing Corporation (Staff) Regulations, 1966, namely:—

1. These regulations may be called the Central Warehousing Corporation (Staff) Third Amendment Regulations, 1969.

2. In sub-regulation (1) of regulation 12 of the Central Warehousing Corporation (Staff) Regulations, 1966, for the opening paragraph, the following shall be substituted, namely:—

“(1) The power to fix or revise the scales of pay of posts in the Corporation shall vest in the Board of Directors, subject to the condition that, for appointment of persons who have already attained the age of 58 years to posts with scales of pay having a maximum of Rs. 2500/- or above or to posts with a fixed pay of Rs. 2500/- or above, prior approval of the Central Government shall be obtained.”

[No. F.26-7/67-S.G.II.]

DEVAKI NANDAN GOYAL, Under Secy.

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**MINISTRY OF TOURISM AND CIVIL AVIATION**

**ORDER**

*New Delhi, the 20th August 1969*

**S.O. 3666.**—In exercise of the powers conferred by rule 160 of the Aircrafts Rules, 1937, the Central Government hereby exempts for a further period of one year with effect from 1st September, 1969, all holders of appropriate Aircraft Maintenance Engineers Licences granted or rendered valid by appropriate authorities of the United Kingdom and Australia from the operation of rule 61 in so far as it relates to rules 57, 58 and 60 of the said rules and directs that the holders of such licences may act as Aircraft Maintenance Engineers in connection with the repair, overhaul, modification and maintenance of aircraft owned and operated by Air India.

[No. F.10-A/38-69.]

S. N. KAUL, Under Secy.

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**MINISTRY OF INFORMATION AND BROADCASTING**

**ORDER**

*New Delhi, the 1st September 1969*

**S.O. 3667.**—In pursuance of the directions issued under the provision of each of the enactments specified in the First Schedule annexed hereto, the Central Government after considering the recommendations of the Film Advisory Board, Bombay hereby approves the film specified in column 2 of the Second Schedule annexed hereto in Gujarati to be of the description specified against it in column 6 of the said Second Schedule.

**THE FIRST SCHEDULE**

- (1) Sub-Section 4 of Section 12 and Section 16 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952).
- (2) Sub-Section (3) of Section 5 and Section 9 of the Bombay Cinemas (Regulation) Act, 1953 (Bombay Act XVII of 1953).
- (3) Sub-Section (4) of Section 5 and Section 9 of the Saurashtra Cinemas (Regulation) Act, 1953 (Saurashtra Act XVII of 1953).

## THE SECOND SCHEDULE

S. No.	Title of the film.	Length 35mm	Name of the Applicant	Name of the Producer	Whether a Scientific film or a film intended for educational purposes or a film dealing with news & current events or a Documentary films.
1	2	3	4	5	6
	Namarata Na Sagar (Colour)	285.90M	Sh. Narendra Trivedi Proprietor, Parimal Pictures, 34/A West View, 10th Khetwadi Bombay-4.		Documentary film (for release in Gujarat Circuit only).

[No. F. 24/1/69-FP-App. 1383].

BANU RAM AGGARWAL, Under Secy.

## सूचना और प्रसारण मंत्रालय

## आदेश

नई दिल्ली, 1 सितम्बर, 1969

एत० नो० 3668:—इसके साथ लगी प्रथम अनुसूची में निर्धारित प्रत्येक अधिनियम के उपबन्ध के अन्तर्गत जारी किये गये निदेशों के अनुसार, केन्द्रीय सरकार, फिल्म सलाहकार बोर्ड, बम्बई की सिफारिशों पर विचार करने के बाद, एतद्वारा, इसके साथ लगी द्वितीय अनुसूची के कालम 2 में दी गई फिल्म को उसके गुजराती भाषा रूपान्तरों सहित, जिसका विवरण उसके सामने उक्त द्वितीय अनुसूची के कालम 6 में दिया हुआ है, स्वीकृत करती है :—

## प्रथम अनुसूची

- (1) चलचित्र अधिनियम, 1952 (1952 का 37वां केन्द्रीय अधिनियम) की धारा 12 की उपधारा (4) तथा धारा 16।
- (2) बम्बई सिनेमा (विनियम) अधिनियम 1953 (1953 का 17वां बम्बई अधिनियम) की धारा 5 की उपधारा (3) तथा धारा 9।
- (3) सौराष्ट्र सिनेमा (विनियम) अधिनियम 1953 (1953 का 17वां सौराष्ट्र अधिनियम) की धारा 5 तथा उपधारा 4 तथा धारा 9।

द्वितीय अनुसूची

क्रम संख्या	फिल्म का नाम	लम्बाई 35 मि० मी०	भावक का नाम	निर्माता का नाम	क्या वैज्ञानिक फिल्म है या शिक्षा सम्बन्धी फिल्म है या समाचार और सामयिक घटनाओं की फिल्म है या डाकु-मैन्ट्री फिल्म है ।
(1)	(2)	(3)	(4)	(5)	(6)
(1)	नम्रता ना सागर (रंगीन)	285.90 मीटर	श्री नरेन्द्र त्रिवेदी, प्रोप्राईटर परिमल पक्वर्ज 34/ए वेस्ट वियू 10	डाकुमैन्ट्री फिल्म (केवल खेतवादी, गुजरात सर्किट के लिये)	बम्बई-4 ।

[संख्या फ० 24/1/69-एफ.पी. परिशिष्ट 1383]

बानू राम अग्रवाल,  
अवर सचिव, भारत सरकार ।

DEPARTMENT OF COMMUNICATIONS

(P. & T. Board)

New Delhi, the 30th August 1969

S.O. 3669.—In exercise of the powers conferred by section 21 of the Indian Post Office Act, 1898 (6 of 1898), the Central Government hereby makes the following rules further to amend the Indian Post Office Rules, 1933, namely:—

1. These rules may be called the Indian Post Office (Tenth Amendment) Rules, 1969.
2. In the Indian Post Office Rules, 1933, rule 52 shall be omitted.

[No. 4/25/67-CF.]

K. GOPALAKRISHNAN,  
Deputy Director General (Mails).

संचार विभाग

(डाक तार बोर्ड)

नई दिल्ली, 30 अगस्त 1969

का० घा० 3670:—भारतीय डाकघर अधिनियम, 1898 (1898 का 6) की धारा 21 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार भारतीय डाकघर नियम, 1933 में और आगे संशोधन करने के लिए निम्नलिखित नियम एतद्वारा बनाती है, अर्थात् :—

1. ये नियम भारतीय डाकघर (दसवां संशोधन) नियम, 1969 कहे जा सकेंगे।
2. भारतीय डाकघर नियम 1933 में नियम 52 सुप्त कर दिया जाएगा।

[क्रम संख्या 4/25/67-सी०.एफ०]

के० गोपालकृष्णन्,  
उप महानिदेशक (डाक),



*New Delhi, the 5th September 1969*

**S.O. 3671.**—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627 dated 8th March, 1960, the Director General Posts and Telegraphs, hereby specifies the 1st October, 1969 as the date on which the Measured Rate system will be introduced in AGARTALA Telephone Exchange, Assam Circle.

[No. 5-70/68-PHB(11).]

D. R. BAHL,  
Asstt. Director General (PHB).

**नई दिल्ली, 5 सितम्बर, 1969**

**एस० ओ० 3672.**—स्थायी आदेश क्रमसंख्या 627 दिनांक 8 मार्च, 1960 द्वारा लागू किये गए 1951 के भारतीय तार नियमों के नियम 434 के खण्ड III के पैरा (क) के अनुसार डाक-तार महानिदेशक ने अगरताला टेलीफोन केन्द्र में 1-10-1969 से प्रभाविता दर प्रणाली लागू करने का निश्चय किया है ।

[स० 5-70/68-पी० एच० बी० (11).]

डी० आर० बहल,

सहायक महा निदेशक (पी० एच० बी०) ।

**MINISTRY OF HEALTH, FAMILY PLANNING, WORKS, HOUSING AND URBAN DEVELOPMENT**

**(Department of Health)**

*New Delhi, the 30th August 1969*

**S.O. 3673.**—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956) the Central Government, after consultation with the Medical Council of India, hereby directs that the medical qualifications "M.D." granted by the Kyoto University, Japan, and M.D. granted by the Chiba University, Japan, shall be recognised medical qualifications for the purposes of this Act.

[No. F. 19-37/69-MPT.]

R. MURTHI, Under Secy.

**(Department of Health)**

*New Delhi, the 30th August 1969*

**S.O. 3674.**—In pursuance of sub-rules (2) and (3) of rule 67 of the Indian Aircraft (Public Health) Rules, 1954 and sub-rules (2) and (3) of rule 89 of the Indian Port

Health Rules, 1955, the Central Government hereby makes the following amendment to the notification of the Government of India in the Ministry of Health No. F. 29-10/64-IHF dated the 7th April, 1965, namely:—

1. In the Schedule to the said notification, in paragraph 2(a) for the figure "25", the figure "31" shall be substituted.

2. This notification shall become effective ten days after its publication in the Official Gazette.

[No. F. 24-9/68-I.H.]

S. SRINIVASAN, Under Secy

(Department of Works, Housing and Urban Development)

New Delhi, the 1st September 1969.

**S.O. 3675.**—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958) the Central Government hereby appoints the officer mentioned in column (1) of the table below, being the officer equivalent to the rank of a gazetted officer of Government to be estate officer for the purposes of the said Act who shall exercise the powers conferred and perform the duties imposed on estate officers by or under the said Act within the local limits of his jurisdiction in respect of the public premises specified in column (2) of the said table.

THE TABLE

Designation of the officer	Categories of public premises and local limits of jurisdiction
(1)	(2)
Personnel Manager-cum-Administrative Officer, Sindri Unit, District Dhanbad, Bihar, Fertilizer Corporation of India Limited.	Public Premises belonging to the Fertilizer Corporation of India Limited within the limits of the Sindri Unit, Sindri, District Dhanbad, Bihar

[No. F.21012(10)/69-Pol. IV.]

T. K. BALASUBRAMANIAM,

Deputy Director of Estates and *Ex-Officio* Under Secy.

पेट्रोलियम और रसायन और खान तथा धातु मंत्रालय

(पेट्रोलियम विभाग)

नई दिल्ली, 5 जून, 1969

का० घा० 3676.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में, कलोल तेल क्षेत्र में व्यघ्न स्थल पर कुम्भा संख्या के-62 से

कुआं संख्या के-29 तक पेट्रोलियम के परिवहन के लिए पाइपलाइन तेल और प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए और ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है ;

अतः अब, पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उाघा 1 (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

3. उक्त भूमि में इतिबद्ध कोई व्यक्ति, उक्त भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप, सक्षम प्राधिकारी, सी एण्ड एम प्रभाग (तेल और प्राकृतिक गैस आयोग) के कार्यालय बरौदा के पश्चिमी क्षेत्र, भेड संख्या 27, मुकरपुरा रोड, सेंट्रल वर्कशाप के पास, बरौदा-4 इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा। ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिशः हो या किसी विधि व्यवसायी की मार्फत।

#### अनुसूची

के-62 से के-29 (मेन कलैक्टर लाइन) तक पाइप लाइन बिछाने के लिए

राज्य	गुजरात	जिला	मेहसाना	तालुका	कलोल
गांव	सर्वेक्षण संख्या	हेक्टर	आर	पी आर	
बादव स्वामी	299	0	3	72	
	298	0	11	48	
	300	0	10	18	
	306	0	1	50	
	303	0	7	10	
	302	0	5	81	
पनसार	1613	0	14	80	
	1612	0	8	34	
	1620/10	0	7	34	
	1620/3	0	5	33	

ग व	सर्वेक्षण संख्या	हेक्टर	आर	पी आर
	1620/9	0	0	59
	1620/2	0	1	00
	1620/28 पी के सडक	0	1	96
	1619/1	0	22	52
	1619/2	0	5	20
	1618	0	2	64

[सं० 29/5/68-आई०ओ०सी०/लिबर]

का० आ० 3677.—यतः पेट्रोलियम, पाइप लाइन (भूमि के उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और रसायन मंत्रालय की अधिसूचना का० आ० सं० 983 तारीख 1-3-69 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को बिछाने के प्रयोजन के लिये अर्जित करने का अपना आशय घोषित कर दिया है।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, यतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है और उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निदेश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में, सभी विलंगनों से मुक्त रूप में, इस घोषणा के प्रकाशन की इस तारीख को निहित होगा।

#### अनुसूची

जी जी एस 7 से कुआ संख्या तक पाइप लाइन (फीडरलाइन) बिछाना

राज्य	गुजरात	जिला	गांधी नगर	तालुका	गांधीनगर
गांव	सर्वेक्षण संख्या	हेक्टर	आर	पी आर	
उबरसाह	1102/1	0	3	44	
	1108	0	10	81	
	1109/1	0	17	60	

ग व	सर्वेक्षण संख्या	हेक्टर	आर	पी आर
	1109/2	0	11	50
	1114	0	7	78
	1117	9	17	60
	1116/1 तथा 2	0	23	77
	1065/1	0	18	51
	1064/4 तथा 5	0	24	59
	1063	0	4	85
	425/2	0	5	0
सेरथा	425/1	0	10	22
	419	0	10	0
	420	0	10	32
	421/1 } 418/1 }	0	16	29
	404	0	4	95
	403	0	7	18
	402	0	6	77
	401	0	5	76
	400	0	7	80
	309	0	7	80
	398/1	0	11	93
	397	0	13	55
	395	0	7	38
	396	0	7	88
	से था बी० पी० कार्टे ट्रैक	0	0	90
	361	0	5	16
	360	0	7	68
	359/2	0	8	09
	363	0	1	50
	358	0	6	57
	357	0	6	07
	356	0	6	80
	355	0	15	88
	बी० पी० कार्टे ट्रैक	0	0	45
	347	0	16	29
सर्वेक्षण संख्या 347 और 729 के बीच बी० पी० भूमि		0	17	60



नई दिल्ली, 6 जून, 1969।

का० आ० 3678:—यतः पेट्रोलियम, पाइप लाइन (भूमि के उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और रसायन मंत्रालय की अधिसूचना का० आ० स० 410 तारीख 21-1-69 द्वारा केन्द्रीय सरकार के उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों के बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया है।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अथ, यतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिए एतद्द्वारा अर्जित किया जाता है और उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निवेश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में, सभी विलगनों से मुक्त रूप में, इस घोषणा के प्रकाशन की इस तारीख को निहित होगा।

#### अनुसूची

कुआं संख्या के ए ओ (32) से कुआं संख्या के आई सी (113) तक पाइप लाइन बिछाना

राज्य — गुजरात		जिला—मेहसाना	तालुका—काडी	
गांव	सर्वेक्षण संख्या	हेक्टर	आर	पी आर
अम्बवपुरा	78/9	0	4	75
	83	0	4	75
	78/9	0	17	29

[सं० 20/3/67-आई०ओ०सी०/लेबर]

का० आ० 3679:—यतः पेट्रोलियम, पाइप लाइन (भूमि के उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और रसायन मंत्रालय की अधिसूचना का० आ० स० 4321 तारीख 25-11-68 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों को बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया है।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, यतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद् द्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिए एतद् द्वारा अर्जित किया जाता है और उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निदेश देती है कि उक्त भूमि में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में, सभी विलंगनों से मुक्त रूप में, इस घोषणा के प्रकाशन की इस तारीख को निहित होगा।

### अनुसूची

कुआं संख्या 42 (को ओ न्यू) से जी जी एस 7 तक पाइप लाइन बिछाना

राज्य—गुजरात	जिला—गांधी नगर	ता.जुका—गांधी नगर		
गांव	सर्वेक्षण संख्या	हेक्टर	आर	पी आर
उबरसद	1011/3	0	7	38
	1011/2/2	0	2	42
	1011/1	0	15	66
	1017/1 ए	0	11	83
	1017/1 बी	0	16	59
	1039	0	18	71
	1040	0	7	68
	1056/2	0	8	29
	1036/1	0	9	51
	1073	0	19	73
	1111	0	9	81
जी० जी० एस 7 से कुआं संख्या 68 तक पाइप लाइन बिछाना				
	1107	0	11	13
	1108	0	3	04
	1104	0	3	04
	1102/1	0	4	85
	1150/5	0	21	35
	1150/2 तथा 3	0	9	81

गांव	सर्वेक्षण संख्या	हैक्टर	आर	पी आर
	1177	0	27	92
	1178	0	29	74
	1222/1	0	5	46
	1221	0	30	63
	1215/6	0	8	29
	1215/3	0	17	07
	1215/4	0	1	00
	1215/1/2	0	1	00

जी जी एस 7 से गैस फ्लैर पाइपलाइन तक पाइप लाइन और कुआं संख्या 99 तथा 107 के लिए लाइन बिछाना

उवरसद	1107	0	6	27
	1104	0	10	72
	1105	0	2	12

कुआ संख्या 15 से जी जी एस 7 तक पाइप लाइन बिछाना

उवरसद	1104	0	3	14
	1108	0	3	4
	1107	0	11	43

[सं० 20/3/67-आई० ओ० सी० / लेवर]

का० आ० 3680—यतः पेट्रोलियम, पाइप लाइन (भूमि के उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और रसायन मंत्रालय की अधिसूचना का० आ० सं० 4323 तारीख 26-11-68 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग के अधिकार को पाइप लाइनों के बिछाने के प्रयोजन के लिए अर्जित करने का अपना आशय घोषित कर दिया है।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, यतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा घोषित करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के प्रयोजन के लिए एतद्द्वारा अर्जित किया जाता है और उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निदेश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने के बजाय तेल और प्राकृतिक गैस आयोग में, सभी विलंगनों से मुक्त रूप में इस घोषणा के प्रकाशन की इस तारीख को निहित होगा।

## अनुसूची

(कुआं संख्या 72 से जी जी एस III तक पाइप लाइन बिछाना)

राज्य	गुजरात	जिला	मेहसाना	तालुका	कलोल
गांव	सर्वेक्षण संख्या	हैक्टर	आर	पी आर	
अम्बवपुरा	189	0	4	05	
	156	0	4	30	
	188/1	0	1	01	
	156	0	4	55	
	वी० पी० अम्बवपुरा	0	2	70	
	145/1	0	8	18	
	144	0	5	36	
	145/2	0	2	98	
	145/3	0	2	70	
	143	0	14	20	
	131	0	4	73	
	133/1 } 133/2 }	0	1	01	
	134	0	11	33	
	133	0	4	55	
(कुआं संख्या 73 से जी जी एस III तक पाइप लाइन बिछाना)					
पनसार	1608/2	0	4	73	
	1608/2	0	7	08	
	1628/1 ए	0	7	08	
	1608/1	0	11	00	
	1626/2	0	92	27	
	1625	0	2	02	
	1627	0	8	61	
	1624	0	3	55	
	1627	0	2	33	
	1622	0	13	09	
अम्बवपुरा	99/1	0	1	88	
	100	0	2	02	

नई दिल्ली, 7 जून 1969

का० आ० 3681:—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोक हित में यह आवश्यक है कि गुजरात राज्य के कलोल तेल क्षेत्र में व्ययन स्थल कुआं संख्या के 62 से कुआं संख्या के 49 तक पेट्रोलियम के परिवहन के लिए पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए और ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपायबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है :

अतः अब, पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

3. उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप, सक्षम प्राधिकारी, सी एण्ड एम डिवीजन (तेल तथा प्राकृतिक गैस आयोग) के कार्यालय, बरोदा के पश्चिमी क्षेत्र, शेड नं० 27 मकर पुरा रोड सैन्ट्रल वर्कशॉप के पास, बरोदा-4 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा। ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की माफ़त।

#### अनुसूची

के 62 से के 49 तक (मेन कलक्टर लाइन) पाइपलाइन बिछाना

राज्य	गुजरात	जिला	मेहसाना	तालुका	काडी
गांव	सर्वेक्षण संख्या		हेक्टर	आर	पी आर
अम्बवपुरा	.	100	0	12	64

[सं० 29/5/68-आई० ओ० सी० / लेबर (1)]

का० आ० 3682:—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोक हित में यह आवश्यक है कि गुजरात राज्य के कलोल तेल क्षेत्र में व्ययन स्थल कुआं संख्या के 62 से जी जी एस 5 तक पेट्रोलियम के परिवहन के लिए पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए और ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपायबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है ;

अतः अब, पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।



3. उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, सी एण्ड एम डिवीजन (तेल तथा प्राकृतिक गैस आयोग) के कार्यालय, बरोदा के पश्चिमी क्षेत्र शैड नं० 27, मकर पुरा रोड, सैन्ट्रल वर्कशाप के पास बरोदा-4 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा । ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत ।

### अनुसूची

के 62 से जी जी एस्. 5 तक पाइप लाइन बिछाना

राज्य	गुजरात	जिला	मेहसाना	तालुका	कलोल
गांव		सर्वेक्षण संख्या	हेक्टर	आर	पी. आर
1		2	3	4	5
छतराल	.	356	0	11	36
		355	0	5	40
		354	0	18	72
		353	0	22	96
	बी. पी. कार्ट ट्रैक		0	1	36
		322	0	37	80
		323	0	2	60
		324	0	0	70
		325	0	1	00
		314	0	14	60
		313	0	26	60
		312	0	6	92
		310	0	7	99
		309	0	3	00
		308	0	3	48
इसनद	.	674/2	0	0	75
		682	0	1	20
		683	0	1	00
वादवस्वामी	.	146	0	24	00
		147	0	15	70
		151	0	16	00
		150	0	12	20
	बी. पी. कार्ट ट्रैक		0	1	50
		138	0	28	50

1	2	3	4	5
	138/2	0	9	80
	214	0	23	40
	213	0	6	94
	222	0	6	14
	210	0	4	85
	223	0	4	85
बादल स्वामी . . .	224	0	21	10
	बी. पी. कार्ट ट्रैक	0	0	68
	225	0	24	84
	सर्वेक्षण संख्या 327 पी के			
	का कार्ट ट्रैक	0	0	60
	327	0	12	60
	288	0	0	20
	289	0	5	98
	290	0	9	60
	298	0	13	60

[सं० 29/5/68—ग्राई० ओ० सी०/लेबर]

का० आ० सं० 3683 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोक हित में यह आवश्यक है कि गुजरात राज्य के कलोल तेल क्षेत्र में जंकशन पाइपलाइन से सी०टी०एफ० तक पेट्रोलियम के परिवहन के लिए पाइपलाइन तेल और प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिये और ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है :

अतः अब पेट्रोलियम पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

3. उक्त भूमि में हितवद्ध कोई व्यक्ति, उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप, सक्षम प्राधिकारी, सी एण्ड एम डिबीजन (तेल तथा प्राकृतिक गैस आयोग) के कार्यालय, बरौदा के पश्चिमी क्षेत्र, शेड नं० 27, मकरपुरा रोड, सैन्ट्रल वर्कशाप के पास, बरौदा-4 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा। ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

## अनुसूची

जंक्शन पाइनट से सी० टी० एफ पाइप लाइन बिछामा

राज्य गुजरात	जिला मेहसामा	तालुका कलोल		
गांव	सर्वेक्षण संख्या	हेक्टर	घर	पी घर
1	2	3	4	5
सैज	462	0	9	00
	475	0	4	75
	476/1	0	12	10
	484	0	3	64
	485	0	0	50
	483/1	0	16	26
	482/2	0	1	76
	482/1	0	11	36
	483/2 बी	0	0	50
	482/4	0	0	30
	488/1/5	0	2	26
	488/1/6	0	4	76
	488/1/4	0	0	25
	489/1ए	0	6	94
	490/1	0	6	00
	490/2	0	2	80
	491	0	5	61
	493/2	0	1	87
	553/1	0	9	10
	553/3	0	26	14
	553/2	0	7	56
	552	0	11	60
	548/3	0	15	70
	549	0	9	00
	547/2	0	4	00
	547/4	0	3	60
	547/3	0	7	70
	542	0	13	60
	547/5	0	3	92
	541/2	0	6	40
	539/2	0	10	00
	बी० पी० कार्टे ट्रक	0	2	16

1	2	3	4	5
सीज	662/4	0	0	40
	662/3	0	6	00
	662/2	0	5	70
	661/2	0	3	50
	661/1	0	10	34
	660/1	0	17	90
	658	0	18	26
	653	0	1	00
	654/1 सी	0	2	96
	बी० पी० कार्ट ट्रैक	0	1	00
	681/2	0	4	00
	681/1	0	4	00
	681/3	0	3	50
	681/4	0	2	50
	682	0	3	60
	686/4	0	4	25
	686/1	0	1	50
	686/2	0	4	50
	688/3	0	2	20
	688/2	0	3	25
	688/1	0	3	50
	690/3	0	1	00
	690/2	0	1	20
	712/2	0	19	78
	बी० पी० कार्ट ट्रैक	0	1	52
	700/1	0	5	70
	696/2	0	1	00
	696/1	0	23	50
	697/ए	0	13	40
	699	0	15	58
	1212	0	6	00
	1213/1	0	8	70
	1213/2	0	5	50
	1216/पी	0	11	20
	1210/1	0	3	50
	1210/2	0	1	50
	1216/सी	0	35	70

## शुद्धिपत्र

नई दिल्ली, 21 जुलाई, 1969

क्रा० आ० 3684.—भारत सरकार के पेट्रोलियम तथा रसायन मंत्रालय की अधिसूचना संख्या 29/5/68-आई. ओ. सी/लेबर दिनांक 5-6-1969 के, जिसका कानूनी आदेश संख्या 2256 के अन्तर्गत भारत के राजपत्र भाग (II), खण्ड-3 में उप-खण्ड (II) दिनांक 14-6-69 को प्रकाशन हुआ था, पृष्ठ 2407 पर, “के-62 से के-29 (मेन क्लकटर लाइन) तक पाइप लाइन बिछाने” के स्थान पर के-62 से के-49 (मेन क्लकटर लाइन) तक पाइप लाइन बिछाने” पढ़िए।

[सं० 29(5)/68-आई० ओ० सी०/लेबर एण्ड लेजिस]

एम० वी० एस० प्रासाद राव, अवर सचिव।

## MINISTRY OF PETROLEUM &amp; CHEMICALS AND MINES &amp; METALS

(Department of Petroleum)

New Delhi, the 26th August 1969

S.O. 3685.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of Petroleum from the drill sites well No. Sanand 14(SL) to Well No. 15 (ST) in the Kalol Oil Field, in Gujarat State, Pipelines should be laid by the Oil and Natural Gas Commission and that for the purpose of laying such Pipelines, it is necessary to acquire the Right of User in the land described in the schedule annexed thereto.

2. Now, therefore, in exercise of the powers conferred by Sub-Section (1) of the Section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

3. Any person interested in the said land may, within 21 days from the date of this notification object to the laying of the pipelines under the land to the Competent Authority, at Western Region, Shed No. 27, Makarpura Road, Near Central Workshop, Baroda 4, in the Office of the C and M Division (Oil and Natural Gas Commission), Baroda. Every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

## SCHEDULE

Laying pipeline from Sanand Well No. 14(SL) to Well No. 15 (ST)

STATE : GUJARAT			DIST : MAHSANA		TAL : KALOL		
Village	S. No.		Hectare	Are.	P.Are.		
Jethalaj . . . . .	457/1 } 457/2 }	. . . . .	0	10	82		
”	456 . . . . .	. . . . .	0	0	50		
”	455 . . . . .	. . . . .	0	7	38		
”	449 } 448 }	. . . . .	0	12	44		
”	450 . . . . .	. . . . .	0	1	81		
”	Village Panchayat cart track .	. . . . .	0	00	90		
”	444 . . . . .	. . . . .	0	1	00		
”	433 . . . . .	. . . . .	0	15	41		
”	438/2 . . . . .	. . . . .	0	2	82		



Village	S. No.	Hectare	Arc.	P. Arc.
Jethala]	438/1A } 438/1B } 438/1C }	.	.	.
"	437/2	0	7	60
"	430	0	1	11
"	431	0	8	4
"	376	0	5	86
"	375	0	0	50
"	374/1 }	0	10	14
"	374/2 }	0	3	74

[No. 20/3/67-IOC/Lab. and Legls.]

(Department of Mines and Metals)

### ERRATUM

New Delhi, the 30th August 1969

**S.O. 3686.**—In the erratum of the Government of India in the Ministry of Petroleum and Chemicals and Mines and Metals, (Department of Mines & Metals) No. S.O. 1599 dated the 24th April, 1969 published in Part II, Section 3, Sub-section (ii) of the Gazette of India dated the 3rd May, 1969. at page—1544—in line-5, for "S.O. 2932" read "S.O. 2832".

[No. C2-22(3)/67.]

M. S. K. RAMASWAMI, Dy. Secy.

## MINISTRY OF FOREIGN TRADE AND SUPPLY

(Department of Supply)

New Delhi, the 28th August 1969

**S.O. 3687.**—In pursuance of the provisions of Rule 45 of the Fundamental Rules, the President hereby makes the following rules to amend the Directorate General of Supplies and Disposals (Allotment of Government residences for employees of Inspection Offices at Tatanagar, Jamshedpur, Burnpur and Kulti) Rules, 1966, namely :—

(1) These rules may be called the Directorate General of Supplies and Disposals (Allotment of Government residences for employees of Inspection Offices at Tatanagar, Jamshedpur, Burnpur and Kulti) Amendment Rules, 1969.

(2) They shall come into force with effect from the 1st September, 1969.

2. In the Directorate General of Supplies and Disposals (Allotment of Government residences for employees of Inspection Offices at Tatanagar, Jamshedpur, Burnpur and Kulti) Rules, 1966 for the Table occurring below sub-rule (2) of the rules under "S. R. 317-R-5-Classification of residences" the following Table shall be substituted namely :—

Type of Residence	Enrolments of officers as on the first day of the allotment year in which the allotment is made.	Old rates
(1)	(2)	(3)
I	Less than Rs. 175/-	Less than Rs. 110/-
II	from Rs. 175/- to Rs. 349/-	Less than Rs. 250/- but not less than Rs. 110/-
III	from Rs. 350/- to Rs. 499/-	Less than Rs. 400/- but not less than Rs. 250/-
IV	from Rs. 500/- to Rs. 799/-	Less than Rs. 700/- but not less than Rs. 400/-

I	2	3
V	from Rs. 800/- to 1299/- . . . .	Less than Rs. 1300/- but not less than Rs 700/-
VI	from Rs. 1300/- to Rs. 2249/- . . . .	Less than Rs. 2250/- but not less than Rs. 1300/-
VII	Rs. 2250/- and above . . . .	Rs. 2250/- and above.

[No. 57(1)/69-E.S. II]

V. RADHAKRISHNAN, Under Secy

## विदेश-व्यापार तथा पूर्ति मंत्रालय

## (पूर्ति विभाग)

नई दिल्ली, 28 अगस्त, 1969

एस० आी० 3688:—मूलभूत नियमों के नियम 45 के अनुबन्धों के अनुसरण में राष्ट्रपति पूर्ति और निपटान महानिदेशालय (टाटानगर, जमशेदपुर, बर्नपुर तथा कुल्दी के निरीक्षण-कार्यालयों के कर्मचारियों के लिए सरकारी आवासों का आवंटन) नियम 1966 में संशोधन करने के लिए एतद्वारा निम्नलिखित नियम बनाते हैं अर्थात् :—

1. (1) ये नियम पूर्ति और निपटान महानिदेशालय (टाटानगर, जमशेदपुर, बर्नपुर तथा कुल्दी के निरीक्षण-कार्यालयों के कर्मचारियों के लिए सरकारी आवासों का आवंटन) संशोधन नियम 1969 कहे जा सकेंगे।

- (2) ये नियम पहली सितम्बर, 1969 से लागू माने जायेंगे।

2. पूर्ति और निपटान महानिदेशालय (टाटानगर, जमशेदपुर, बर्नपुर तथा कुल्दी के निरीक्षण कार्यालयों के कर्मचारियों के लिए सरकारी आवासों का आवंटन) नियम 1969 में "एस० आर० 317-आर-5-आवासों का वर्गीकरण" के अधीन दिए गए नियमों के उप-नियम (2) के नीचे दी गई सारणी के लिए निम्नलिखित सारणी प्रतिस्थापित की जायेगी अर्थात् :—

आवास जिस वर्ष आवंटन किया गया उस वर्ष के का प्रकार प्रथम दिन को अधिकारी की उपलब्धियां (टाइप)	पुरानी दरें
---	-------------

(1)	(2)	(3)
I 175 रुपए से कम . . . .		110 रुपए से कम।
II 175 रुपए से 349 रुपए तक . . . .		250 रुपए से कम परन्तु 110 रुपए से कम न हो।
III 350 रुपए से 499 रुपए तक . . . .		400 रुपए से कम परन्तु 250 रुपए से कम न हो।

(1)	(2)	(3)
IV 500 रुपए से 799 रुपए तक .	.	700 रुपए से कम परन्तु 400 रुपए से कम न हो ।
V 800 रुपए से 1299 रुपए तक .	.	1300 रुपए से कम परन्तु 700 रुपए से कम न हो ।
VI 1300 रुपए से 2249 रुपए तक .	.	2250 रुपए से कम परन्तु 1300 रुपए से कम न हो ।
VII 2250 रुपए तथा इससे ऊपर .	.	2250 रुपए और इससे ऊपर ।

[सं० 57/1/69-स्थापना-2]

वी० राधाकृष्णन, भवन सचिव ।

**(Department of Foreign Trade)**

*New Delhi the 29th August 1969*

**S.O. 3689.**—In exercise of the powers conferred by clause (i) of sub-section (3) of section 4 of the Central Silk Board Act, 1948 (61 of 1948), the Central Government hereby nominates the Director of Industries, Government of Himachal Pradesh, Simla to be a member of the Central Silk Board in place of Shri P. K. Mattoo and makes the following further amendment in the notification of the Government of India in the Ministry of Commerce No. S.O. 2260 dated the 28th June, 1967, namely:—

In the said notification, for the entry against serial number 30, the following entry shall be substituted, namely:—

"30. The Director of Industries, Government of Himachal Pradesh, Simla."

[No. F. 22/1/67-Tex(F).]

DAULAT RAM, Under Secy.

**(Department of Foreign Trade)**

**TEA CONTROL**

*New Delhi, the 30th August 1969*

**S.O. 3690.**—In exercise of the powers conferred by section 4 of the Tea Act, 1953 (29 of 1953), read with rules 4 and 5 of the Tea Rules, 1954, the Central Government hereby appoints (1) Secretary to Government, Industries Department, Tamilnadu and (2) Shri N. Bhagwandas as members of the Tea Board until the 31st March, 1972 and makes the following amendment in the notification of the Government of India in the Ministry of Foreign Trade and Supply (Department of Foreign Trade) No. S.O. 1498, dated the 17th April, 1969 published in the Gazette of India Extraordinary, namely:—

In the said notification,

(a) after entry 3, the following entry shall be inserted, namely:—

"3A. The Secretary to Government, Industries Department, Tamilnadu, Madras (*ex-officio*)";

(b) after entry 15, the following entry shall be inserted, namely:—

"15A. Shri N. Bhagwandas, Managing Partner, Ben Gorm, Nilgiri Plantations Co., Hulical P.O. South India".

[No. 7(1)Plant(A)/69.]

**RUBBER CONTROL**

*New Delhi the 30th August, 1969*

**S.O. 3691.**—Shri T. V. Joseph, Secretary, Rubber Board, Kottayam, Kerala, is granted earned leave for 27 days with effect from 3rd February, 1969, to 1st March, 1969, (both days inclusive) with permission to suffix the 2nd March, 1969 (Sunday) to his leave and also earned leave for 10 days with effect from the 14th August, 1969, with permission to prefix 13th August, 1969 and suffix the holidays on the 24th to 28th August, 1969.

2. In pursuance of sub-section (2) of section 6A of the Rubber Act, 1947 (24 of 1947), Shri K. V. Chacko, Finance and Accounts Officer in the Rubber Board, Kottayam, is hereby appointed to hold additional charge of the post of Secretary, Rubber Board, in addition to his own duties, during the period of leave of Shri T. V. Joseph.

[No. F. 21(19)Plant(B)/67.]

*New Delhi the 2nd September 1969*

**S.O. 3692.**—In exercise of the powers conferred by clause (a) of sub-section (i) of section 9 of the Tea Act, 1953 (29 of 1953) the Central Government hereby appoints until further orders Shri P. V. Ramaswamy, a Selection Grade Officer of the Central Secretariat Service as Secretary, Tea Board with effect from the forenoon of 29th July, 1969, *vice* Shri S. S. Nandkeolyar.

[No. 5(27)-Plant(A)/69.]

M. L. GUPTA, Under Secy.

**(Office of the Joint Chief Controller of Imports and Exports)**

**ORDER**

*Bombay, the 16th August 1969*

**S.O. 3693.**—A licence No. P/SS/1565818, dated 28th May, 1968 of the value of Rs. 10,000 for import of Polyethylene Moulding Power High Density, Polystyrene, C.A.B. Moulding Power, Polyvinyl Formal and Polyvinyl Acetol. etc., was issued to Messrs. Satya Plastic Products, Industrial Estate, Vidisha, Madhya Pradesh subject to the conditions as under:—

"This licence is issued subject to the condition that all the items of goods imported under it shall be used only in the licence holder's factory at address shown in the Essentiality Certificate issued by the recommending authority, against which the licence is issued and no portion thereof will be utilised by the licensee for a Unit/purpose other than the one for which the licence in question is issued, or will be sold or be permitted to be utilised by any other party."

2. Thereafter, a Show Cause Notice No. 1/79/69/AU/Enf./8914, dated 23th May, 1969 was issued asking them to show cause within 15 days as to why in terms of Clause 9, sub-clause (cc) the said licence in their favour should not be cancelled on the ground that the firm has not made any progress towards establishment of industry.

3. In response to the aforesaid Show Cause Notice, Messrs Satya Plastic Products, Vidisha, Madhya Pradesh had, by their letter No. SPP/1/69, dated the 11th June, 1969 have stated that the captioned licence is not received by them and they have no objection for cancellation of the said licence.

4. The undersigned has carefully examined the said representation and has come to the conclusion that the aforesaid licence will not serve the purpose for which it has been granted.

5. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers

vested in him under Clause 9 sub-clause (cc) of the Imports (Control) Order, 1955 hereby cancels the licence No. P/SS/1565818, dated 28th May, 1968 for Rs. 10,000 issued in favour of Messrs Satya Plastic Products, Vidisha, Madhya Pradesh.

[No. 1/79/69/AU/Enf.]

I. R. KAKAR,

Dy. Chief Controller of Imports & Exports.

(Office of the Deputy Chief Controller of Imports and Exports)

ORDERS

*Kanpur, the 18th August 1969*

**S.O. 3694.**—The following licence was issued to M/s. B. R. Circles and Sheet Manufacturers, Bhatti Street Moradabad:—

1. P/SS/1622780 dated the 13th December, 1967 for Rs. 7,712 for import of German Silver Scrap and Brass Scrap.

Thereafter a show cause notice No. Enf. 1(175)/1968/Kan dated the 25th November, 1968 was issued asking them to show cause within 10 days of the receipt of notice as to why the said licence should not be cancelled for the reason that the firm has since dissolved and has ceased functioning since July, 1968.

In response to the aforesaid show cause notice M/s. B. R. Circles and Sheet Manufacturers Bhatti Street Moradabad, could not show any valid reasons against the proposed cancellation as per their reply *vide* letter dated 5th December, 1968.

Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the said licence in question should be cancelled or otherwise rendered in-effective. Therefore, the undersigned in exercise of powers vested in him under clause 9 of the Import (Control) Orders, 1955 hereby cancels the licence No. P/SS/1622780 dated 13th December, 1967 issued in favour of M/s. B. R. Circles and Sheet Manufacturers, Bhatti Street, Moradabad.

[No. ENF.1(175)/1968/KAN/3586.]

*Kanpur, the 1st September 1969*

**S.O. 3695.**—The following import licences were issued in favour of M/s. Dhatu Kala Udyog Sahkari Samiti Ltd. Adityanagar, P. O. Sunderpur, District, Varanasi:—

- |  |                  |                        |
|--|------------------|------------------------|
| (i) P/SS/1581639 dated 10th February, 1967 for Rs. 13680 | } for the import |                        |
| (ii) P/SS/1623594 dated 4th March, 1968 for Rs. 10000    |                  |                        |
| (iii) P/SS/1623595 dated 4th March, 1968 for Rs. 3680    |                  |                        |
|  |                  | of German Silver Scrap |

Thereafter a show cause notice No. ENF.1(217)/1969/KAN, dated the 13th June, 1969 was issued asking them to show cause within 10(Ten) days of the date of receipt of the said notice as to why the said licences in their favour should not be cancelled on the ground that they have misutilised the imported goods in terms of clause 9(cc) of the Import (Control) Order, 1955 as amended.

The stipulated period of 10 days is over and the party has not come forward with any explanation so far. The show cause notice was delivered to them on 20th June, 1969 as per acknowledgement on records shows.

The undersigned has carefully examined the case and has come to the conclusion that the party has no defence to urge and have avoided a reply.

Having regard to what has been stated in the preceding paragraph the undersigned is satisfied that the licences in question should be cancelled or otherwise rendered ineffective. Therefore the undersigned in exercise of powers vested in him under clause 9 sub clause (cc) of the Imports (Control) Order, 1955 hereby cancels the licences issued in favour of M/s. Dhatu Kala Udyog Sahkari Samiti Ltd., Adityanagar, P. O. Sunderpur, District Varanasi, Nos. P/SS/1581639 dated 10th February, 1967, P/SS/1623594 and P/SS/1623595 both dated 4th March, 1968.

[No. ENF.1(217)/1969/KAN/2568.]

O. N. ANAND,

Dy. Chief Controller of Imports and Exports.

(Office of the Joint Chief Controller of Imports and Exports)

ORDER

Calcutta, the 30th August 1969

**S.O. 3696.**—An Actual Users licence No. P/SS/1629903/C/XX/29C/27 dated 6th December, 1968 of the value of Rs. 4,119/- for import of Aromatic Chemicals, N.E. Oil & Broken Coral Reeds was issued to M/s. Sadhana Industries, 123, Balaram Dey Street, Calcutta-6 and 15, Cossipore Road, Calcutta-2.

2. Thereafter, a show cause notice No. 76/69/E&L dated 7th May, 1969 was issued asking them to show cause within 15 days as to why the said licence in their favour should not be cancelled on the ground that their S.S.I. Registration Certificate number was cancelled by the Director of Industries, West Bengal in terms of Clause 9, sub-clause (cc).

3. In response to the aforesaid show cause notice, M/s. Sadhana Industries had, by their letter dated 21st May 1969 & 5th June 1969 furnished a detailed explanation and had also asked for personal hearing with the undersigned which was allowed to their representative on 5th July 1969. Intimation regarding grant of personal interview was returned to this office undelivered by the Postal authority with the remark "not claimed". In their said reply the firm contended that they have approached the Director of Industries for renewal of the S.S.I. Registration number.

4. The undersigned has carefully examined the said representation and has come to the conclusion that the licence will not serve the purpose for which it was granted.

5. Having regard to what has been stated in the preceding paragraph, the undersigned is satisfied that the licence in question should be cancelled or otherwise rendered ineffective. Therefore, the undersigned, in exercise of the powers vested in him under clause 9 sub clause (cc) of the Imports (Control) Order, 1955 hereby cancel the licence No. P/SS/1629903/C/XX/29C/27 dated 6th December, 1968 for Rs. 4,119/- issued in favour of M/s. Sadhana Industries, 123, Balaram Dey Street, Calcutta-6 and 15, Cossipore Road, Calcutta-2.

[No. 76/69/E&L.]

M. S. PURI,

Dy. Chief Controller of Imports & Exports.

**MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION**

(Department of Labour and Employment)

New Delhi, the 31st July 1969

**S.O. 3697.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the National Industrial Tribunal, Dhanbad in the industrial dispute between the employers in relation to the Indian Oil Corporation Limited, Bombay and their workmen, which was received by the Central Government on the 19th July 1969.

**BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL AT DHANBAD**

In the matter of a reference under section 10(1A) of the Industrial Disputes Act, 1947

N. T. REFERENCE No. 5 OF 1967

**PARTIES:**

Management of the Indian Oil Corporation Ltd., Bombay.  
AND

Their Workmen.

**PRESENT:**

Shri Kamla Sahai, Presiding Officer.

**APPEARANCES:**

*For the Indian Oil Corporation*—Shri S. D. Vimadalal, Barrister-at-Law, with S/Shri V. H. Dhopeshwarkar, Deputy Manager, P&A, Aladi Subramaniam, Dy. Financial Controller and D. H. Pradhan, Personnel Officer (I.R.).

*For the Workmen*—S/Shri V. K. Tembe, Advocate, Sarjotishi, M. B. Kulkarni, Shidore and Surve.

**STATE:** Maharashtra.

**INDUSTRY:** Oil.

Calcutta, dated the 15th July, 1969



## AWARD

By order No. 17/5/67/LR/III dated the 27th July, 1967, the Central Government, in the Ministry of Labour, Employment and Rehabilitation, has referred for adjudication to this Tribunal a question which has been put in the schedule, after correction, as follows:—

## SCHEDULE

“Whether the workmen of the Indian Oil Corporation, Bombay, and all its branches are entitled to a higher bonus than 4 per cent for the year 1965-66? If so, what should be the quantum of bonus for the said year?”

2. The Indian Oil Corporation Ltd., is a public sector Corporation. It is owned entirely by the Government of India. Its financial year begins from the 1st April of one year and ends on the 31st March of the next year. The Corporation's predecessor concerns namely the Indian Oil Company Ltd., and the Indian Refineries Ltd., were both public sector undertakings of the Government of India. They were joined together and were incorporated as the Indian Oil Corporation Ltd., on or about the 1st September, 1964. The balancesheet and the profit and loss account of the Corporation are jointly audited by three different firms of Auditors viz.: (1) M/s. A. F. Fergusson & Co., Bombay, (2) M/s. P. N. Mitra & Co., Calcutta and (3) M/s. S. P. Chopra & Co., New Delhi. They are also liable to be examined and audited by the Director of Commercial Audit under the Comptroller and Auditor General of India who has, under section 619(4) of the Indian Companies Act 1956 the “right to comment upon or supplement, the audit report in such manner as he thinks fit”.

3. The question of bonus relates in this reference to the year 1965-66. At the end of the balancesheet and profit and loss account of that year, the auditors have given, besides their report, details of the allocation of work amongst the three firms of auditors as made under the directions of the Comptroller and Auditor General of India. The Director of Commercial Audit has then added his own comment and remarks. The Chairman of the Corporation has thereafter merely said about them:—

“The remarks are self explanatory and as such do not require any comments”.

4. As to the quantum of bonus for the year 1965-66, the Corporation's case is that, after careful consideration of the balancesheet and profit and loss account, it found that there was no available, much less allocable surplus, in that year but, on the contrary, there was a substantial deficit. The result was that it found that no bonus except the minimum bonus of 4 per cent payable under section 10 of the Payment of Bonus Act, 1965 was payable to the workmen. Minimum bonus, based not on the quantum of profits made by the Corporation but on the minimum bonus laid down in section 10 of the Act was, therefore, paid to the workmen. Its case, therefore, is that no further bonus is payable.

5. The Corporation has filed the balancesheet and profit and loss account for the year 1965-66 as well as those for other years. It has also filed an affidavit (Ext. M-1) sworn by Shri Alladi Subramanyam who presently holds the post of Deputy Financial Controller of the Indian Oil Corporation at Bombay. He has also stated that he was concerned with the finalisation of the accounts of the Corporation for the year ended 31st March 1966 as he was then holding the post of Chief Accounts Officer of the Corporation. He is a qualified Chartered Accountant, being an associate member of the Institute of Chartered Accountants of India from 1960 and also an associate member of the Institute of Cost and Works Accountants of India from 1965. Further, he is a Law Graduate, having passed the LLB Degree examination of the Osmania University in 1960. Shri Subramanyam has filed along with his affidavit annexures to explain several matters. He was examined on behalf of the management and has been cross-examined by Shri Tembe, the learned Advocate for the Federation i.e. the only contesting union.

6. Apart from other documents, the Corporation has filed Ext. Con. M-1 and Ext. Con. M-2 which are assessment orders respectively of the Income Tax Officer relating to the Indian Oil Corporation for the assessment years 1965-66 and 1966-67.

7. The only union which appeared and contested the reference at the hearing was the National Federation of Petroleum Workers (India) on behalf of the workmen represented by it. This Federation has stated in its written statement that

the Corporation has already paid a bonus for the year 1965-66 at the rate of 4 per cent of the emoluments of the workmen but it has given its opinion to the effect that a "larger quantum of bonus is due to the workmen on the basis of the formula laid down in the Payment of Bonus Act". It has further stated that, in the profit and loss account for the year 1965-66, the company has debited a sum of Rs. 4,37,14,873 as loss on devaluation. It has then submitted that, since the devaluation was introduced on the 6th June, 1966, any loss or profit on account of devaluation could not be shown in the profit and loss account or balancesheet of the company for the year 1965-66. The fact that the Corporation has shown loss on account of that devaluation means that it has not revealed "a true and fair picture of the profit and of the financial position of the company as on 31st March, 1966". The Federation has further stated that it will file an application under section 23 of the Payment of Bonus Act, challenging the accuracy of the profit and loss account and balancesheet of the company and will also ask for clarifications. In paragraph 4, it has stated that the Corporation is liable to pay the maximum quantum of bonus to the workmen under the Payment of Bonus Act. It has also said that it will submit its computation for bonus later.

8. In view of the wording of the schedule to the reference, the first question which arises for consideration in this case is whether bonus at a rate higher than 4 per cent is payable for the year 1965-66. It is only if the answer to this question is in the affirmative that this Tribunal is further required to ascertain the exact quantum of bonus payable for that year.

9. Shri V. K. Tembe did not make any attempt at the hearing to show that the corporation made any profit higher than that shown in the balancesheet and profit and loss account. The main point which he argued and stressed was that the corporation could only show in the balance-sheet for 1965-66 the profit made and loss incurred by the corporation in that financial year. According to him, the loss of Rs. 4,37,14,873 said to have been incurred by the Corporation on account of devaluation of the Indian rupee which came into effect on the 6th June, 1966 could not be taken into account in the financial year 1965-66.

10. On the other hand, the case put forward by Shri Subramanyam in his affidavit is that ordinarily, a normal credit period of 120 to 180 days from the date of the bill of lading is allowed under the agreements between the corporation and its foreign suppliers. He has affirmed that the loss of Rs. 4,26,19,750 on account of devaluation was computed in respect of purchases of goods made by the Corporation on or before the 31st March, 1966; the purchase prices on which remained unpaid until the date of devaluation i.e. 6th June 1966 because of the credit period allowed to the corporation. He has also said that "most of the goods were sold before the devaluation date, and, therefore, the liability to pay this additional amount was actually incurred and was rightly debited against the purchases which were entered into the Corporation's books before the 31st March, 1966.....". The accounts of the Corporation for the year ended 31st March 1966 had not been made up. The accounts for that year were closed on or about the 4th October, 1966. The Director's report on the accounts is dated the 25th October, 1966. According to him:—

"The treatment accorded by the Corporation in respect of the loss on devaluation is also in conformity with the accounting recommendations of the Institute of Chartered Accountants of India".

He has then quoted the remarks of the Institute which are as follows:—

"Accounts with financial years ending prior to 6th June, 1966.

2.1. Where the accounts of an enterprise are closed on a date prior to 6th June, 1966, but the auditor reports thereon subsequent to that date, the question arises whether it is necessary to include in the accounts or in the auditor's report any reference to the fact of devaluation and its effects upon the accounts of the Company. It is accepted in connection with certain matters that events occurring after the balance-sheet date may be of such a nature that they would have to be taken into account in order to show a true and fair view. The council is, therefore, of the opinion that it is the duty of the Directors of a company to disclose by way of a note on the accounts the effect, if material, of devaluation upon the accounts

of the company and in particular about the extent to which the outstanding liabilities may be increased as a result of devaluation and its effect upon the profit or loss of a company. Such a note may take the following form:

"As a result of the devaluation of the rupee after the close of the accounting year, the additional rupee cost of meeting outstanding liabilities in foreign currencies for which no provision has been made in the accounts, amounted to:

Secured Loans	Rs.
Unsecured Loans	Rs.
Current liabilities and provisions	Rs.

In cases where the amount cannot be ascertained with accuracy an approximate amount should be stated. The auditor's statutory report should be signed subject to the note on the accounts.

2.2. While this is the recommended procedure, it is permissible for a company to include the effects of devaluation in its accounts ending on a date prior to 6th June, 1966. It would be desirable to make appropriate disclosure of the effect of such inclusion on the true and fair view of the results for the year and the position as at the Balance-sheet date in the accounts or in any notes thereon".

11. Thereafter Shri Subramanyam has stated in his affidavit that the sum of Rs. 10,95,123 relates to outstanding creditors for demurrages, etc. Thus he has accounted for the entire sum of Rs. 4,37,14,873.

12. Shri Tembe has argued that the corporation should not have followed a procedure which is, at best, according to the Institute of Chartered Accountants of India, only, "permissible". The point which he has made is that although this procedure may be permissible, it is not warranted under the Company law because, under that law, the profit or loss accruing after the end of the financial year for which the balance-sheet is prepared, cannot be included. It cannot be gainsaid however, that the remarks of the Institute of Chartered Accountants of India as quoted by Shri Subramanyam were drawn up after the devaluation of the rupee, specifically to deal with the extraordinary situation created by it and they fully support the principle of accounting followed by the corporation. Besides, it cannot possibly be asserted that the effect of devaluation of the Indian currency upon the finance of the Corporation extremely important as it was, need not have been disclosed by it in its balance-sheet or profit and loss account. The Corporation could have disclosed the full effect by means of notes or by means of actual deduction of the total loss on devaluation in the accounts. I find it impossible to agree that the mere fact that the latter course was followed makes the accounts false which much necessarily include an element of dishonesty. It has at least the merit of giving a true picture of the financial position of the Corporation after the devaluation came into effect. If it had stopped short by saying what was its financial on 31st March 1966 without disclosing what came to be the financial position after devaluation on 6th June 1966, it would not have given a true and fair picture.

13. Shri Tembe has next argued that the Corporation has not been consistent in taking full account of the fact of the devaluation upon its assets. He has submitted that, while the Corporation has shown in the balance sheet and profit and loss account of 1965-66 the loss of Rs. 4,37,14,873 it has not shown in that balance-sheet the loss of Rs. 4,38,84,209 which appears from note 8 at page 55 of the balance-sheet of 1965-66. The note is as follows:

"In addition to the liabilities (less assets) in foreign currencies as at 31st March, 1966 which had not been paid before 5th June, 1966, in respect of which a Loss on Devaluation of Rs. 4,37,14,873 has been written off in the accounts, the Corporation had liabilities for purchase of Capital assets payable in foreign currencies of Rs. 7,63,20,364 which are stated on the Balance-sheet at the rates of exchange ruling on 31st March, 1966. Consequent upon the devaluation of the Indian rupee on 6th June, 1966, the rupee value of these liabilities has increased by Rs. 4,38,84,209 for which no provision has been made".

14. This note makes the position absolutely clear. It shows that, while the loss of Rs. 4,37,14,873 was written off, no provision was made for the loss of Rs. 4,38,84,209 on purchase of capital assets. It has been explained on behalf of the management that the loss of the amount first mentioned was shown in the balance-sheet for 1965-66 because:

- (i) the entire purchase on which the loss was incurred was made in the financial year 1965-66; and (ii) almost all those goods were sold in that very financial year though the goods were paid for later on account of the credit of 120 or 180 days which was allowed to the Corporation.

The management has, therefore, submitted that this loss was entirely incurred in the financial year 1965-66. It was shown in the balancesheet of that year specially on account of two reasons: one being that the account of that financial year was not closed and the other being that the Institute of Chartered Accountant has recommended that procedure or has, at any rate, described it to be permissible. On the other hand, it has been argued on behalf of the management, the loss of Rs. 4,38,84,209 was not shown in the balancesheet of that year because the capital goods in respect of the purchase of which that loss was incurred were not sold on or before the 31st March, 1966. In my opinion, these arguments are reasonable and they fully explain the inclusion in the balancesheet of the loss of Rs. 4,37,14,873 and the non-inclusion of the loss of Rs. 4,38,84,209 on the purchase of capital goods.

15. Shri Tembe has elicited in cross-examination from Shri Subramanyam that the debit for the entire loss on devaluation i.e. the sum of Rs. 4,26,19,750 was shown in one entry only. Shri Tembe has argued that this is not the method of writing up accounts. Entries relating to payments and receipts must, according to him, be separately made from date to date. He has, therefore, characterised the fact of there being one debit entry for the entire loss as amounting almost to falsification of accounts. I think this is a clear misunderstanding of what has been done by the Corporation. Shri Tembe's harsh expression seems to me to be quite unjustified. What has clearly happened is that the Accountants of the Corporation worked out the figure of loss on account of the devaluation. Entries relating to payments to sellers of the Petroleum goods must only have been made in the accounts on the dates on which the payments were actually made i.e. after the 31st March, 1966. Those accounts could not be taken bodily into the account of the year 1965-66. What the Accountants of the Corporation, therefore, obviously did was to find out the entire figure of loss and to make one debit entry in the accounts of the year 1965-66 in order to show in those accounts the total loss which according to them was incurred on account of devaluation in respect of transactions completed in the financial year 1965-66 with this exception only that payment for the goods by the Corporation were made later within the credit period. I do not think that this can possibly amount to falsification of account.

16. Shri Tembe has gone to the length of saying that the accounts of the Corporation and the balancesheet and profit and loss account in question are false. This submission is based mainly upon the arguments relating to the effect of devaluation which I have mentioned above. Whatever may be said about the point that the Corporation is or is not entitled to deduction of the amount of loss suffered by it on account of devaluation of the Indian currency in the computation of bonus for the year 1965-66, it is impossible to accept that the Corporation has deliberately prepared a false balancesheet and profit and loss account. As I have said, its accounts are audited by three well-known firms of chartered accountants and their work is seen to by the Director of Commercial Audit. Surely they could not be parties to the preparation of false accounts. Indeed, Shri Tembe has himself stated in so many words that he does not challenge the *bonafides* of the Corporation but he merely challenges the principles of accounting followed by it. This cannot lead to the inference that the balancesheet and the profit and loss account are false. At the most, the inference most adverse to the Corporation, even according to Shri Tembe's argument, can be that its accountants did not follow correct principle of accounting. I am, however, not even prepared to go to this extent. So far as I can see, the principles of accounting followed by them cannot be held to be wrong. I can only say that the matter is extremely doubtful and I do not consider it necessary to decide in this case whether the Corporation is or is not entitled to deduct from its profit the loss of Rs. 4,37,14,873 for the purpose of computation of bonus. I may say that a decision on this point is also unnecessary because Shri Vimalalal, the learned Advocate who has appeared on behalf of the Corporation, has shown that, even if I take three items only into consideration, the entire profits of the Corporation are wiped out and no surplus is left, much less any available surplus.

17. I may also mention at this state that, under section 23 of the Payment of Bonus Act, the presumption arises that the statements and particulars contained in the Corporation's balancesheet and profit and loss account are accurate. Shri Tembe has argued that the words of the section show that the presumption is not mandatory. In all the circumstances of this case, however, I am of opinion that the presumption should be raised.



18. Ext. MW 1 is a computation of bonus is one sheet by both parties, Admittedly, the net profit as per profit and loss account is—

Rs. 1,01,26,480

The management has added to this the following amounts:—

Loss on assets revalued sold etc.	Rs.	4,24,042
On account of depreciation	Rs.	3,47,22,537
Provision for doubtful debts	Rs.	22,86,632
Provision for bonus	Rs.	12,19,347
The total of the four items above thus comes to:		3,86,52,558

The same figure has also been arrived at by the Federation.

To the above total amount, the Federation has added back the following amounts :

Outside road development expenditure	Rs.	6,62,602
Bad debts written off	Rs.	55,506
Survey and investigation	Rs.	3,893
Provision for loss on account of under recovery	Rs.	1,61,33,000
Loss on devaluation	Rs.	4,37,14,873
Expenses pertaining to previous year	Rs.	48,25,000
Donation	R.	56,405
		6,54,51,279
TOTAL		11,42,30,217

From this, the Federation has deducted :—

Depreciation	Rs.	3,17,22,537
8 % return on capital amounting to	Rs.	3,76,22,870
	Rs.	7,23,45,407

The Federation has thus shown available surplus to be Rs. 4,18,84,810 after deducting Rs. 7,23,45,407 from the total figure of Rs. 11,42,30,217.

19. Shri Vimadlal has said that he claims all the add-backs and deductions which he has claimed in the management's pleadings and Shri Subramanyam's affidavit and evidence but, in order to expose the hollowness of the Federation's claim, he has submitted that, even if he takes three items into consideration namely depreciation, development rebate and 8½ per cent return on capital as conceded by the Federation, the entire profit claimed by the Federation—highly inflated as it is—would be completely wiped out and no surplus would be left.

20. I may proceed to consider these three items:—

(1) *Depreciation.*—There are two methods of calculation of depreciation. One is the "straight line method" and the other is the "written down value" method. This has been stated by Shri Subramanyam in paragraph 5 of his affidavit. He has also pointed out that, under section 205(2) of the company Act 1956, it is open to a company to choose either of the two methods for providing depreciation in its books of account. According to him, "the corporation has been following the former method viz "straight line method" instead of written down value method. For the purpose of assessment of the Corporation under the Indian Income Tax Act, 1961, the Corporation is entitled to deduct by way of depreciation the quantum arrived at on the written down value method as provided in the income tax rules. That the Corporation has been following the straight line method for providing depreciation in the past is evident from note 10 at page 49 of the balancesheet of the Indian Oil Corporation Ltd., as at 31st March, 1964 (now known as "Indian Oil Corporation Ltd"), a copy whereof is annexed hereto marked Annexure 'A'. The Corporation has followed the same basis for providing depreciation in the books in all the subsequent years including the year under consideration i.e. the year ended 31st March, 1966".

21. There cannot be the slightest doubt that it is by following the straight line method that the Corporation has arrived at the figure of Rs. 3,76,22,817 as the amount of depreciation, which it has mentioned in the balancesheet. Under section 32(1)(ii), depreciation on buildings, machinery, plant or furniture has to be allowed on "such percentage on the written down value as made in any case or classes may be prescribed". Under section 6(a) of the Payment of Bonus Act, the first deduction of a 'prior charge' is to be of the amount of depreciation admissible in accordance with the provisions of sub-section 1(i) of section 32 of the Income Tax Act. In these circumstances, I am clearly of the opinion that the computation of depreciation must be by the written down value method. Shri Subramanyam has definitely stated in paragraph 7 of his affidavit that the depreciation for the year 1965-66 amounts under section 32(i) of the Income Tax Act to Rs. 7,13,10,529.

22. Shri Tembe has attempted to show that the Corporation has been claiming different amounts at different times on account of depreciation. He has pointed out that, in Ext. M4, the original figures submitted by the Corporation, the amount of depreciation was shown as 6,89,42,333. The assessment order (Ext. Con. M2) shows that the revised figure of depreciation was 7,13,10,529 as mentioned by Shri Subramanyam in his affidavit. There is nothing before me to show that the revised figure of claim before the Income Tax Assessment Officer was wrong. In his evidence, Shri Subramanyam has stated that, out of the depreciation of Rs. 7,13,10,529 which was claimed by the Corporation before the Income Tax Officer as depreciation, he disallowed a sum of Rs. 16,21,200 on the ground that this was depreciation on interest which was capitalised. He, however, allowed a sum of Rs. 6,96,89,329 as depreciation obviously on the written down value method. Shri Vimadalal has stated that, although he claims the entire amount of Rs. 7,13,10,529 as depreciation, he will be satisfied for the purpose of bonus in this case if depreciation is accepted at the figure accepted by the Income Tax Officer whose duty it is to scrutinise the accounts and to allow an assessee like the Corporation nothing more as depreciation than it is entitled to. I think that this argument is quite reasonable.

23. Shri Tembe has examined a witness named Madhukar Bhalechandra Kulkarni as W.W. 1. He has produced a paper containing bonus computation and has stated that this was prepared by the Corporation and handed over to the union during cancellation proceedings. This has been marked Ext. W4. He has, however, admitted in cross-examination that he did not personally receive the copy of computation and that he was producing it as a computation of bonus on behalf of the Corporation simply because it was found on the union's file on which papers relating to bonus for the year 1965-66 were kept. The exhibit is not on the paper of the Indian Oil Corporation nor is there any mark to show that this was prepared in the Corporation's office. I am therefore, not prepared to accept this exhibit, as a computation of bonus in the office of the corporation.

24. In the circumstances mentioned above, the Corporation may be entitled to a higher depreciation than the amount allowed to it by the Income Tax Officer in the assessment for the assessment year 1966-67 (Ext. Con. M2) but, for the purpose of this case, I would put the figure of depreciation at the one allowed by the Income Tax Officer as submitted by Shri Vimadalal.

25. *Development Rebate.*—According to section 6(b) of the Payment of Bonus Act, one of the sums to be deducted from the gross profits as prior charges is an amount "by way of development rebate or development allowance which the employer is entitled to deduct from his income under the Income Tax Act". Shri Subramanyam has given in paragraph 19 of his affidavit the details regarding development rebate. He has stated that the amount of development rebate which the Corporation is entitled to for the year 1965-66 is a sum of Rs. 15,27,82,110. The Income Tax Officer has come to the conclusion in his order (Con. Ext. M2) that the development rebate admissible to the Corporation at 20 per cent on the amount left after excluding capitalised interest comes to Rs. 8,47,42,896. He has added at the end that the unabsorbed development rebate of Rs. 8,47,42,896, along with the unabsorbed development rebate allowed in previous years would be "carried forward" subject to creation of adequate reserves in the year of claim/profits. This shows that the amount mentioned above has been allowed as development rebate but it has not been absorbed simply because of the fact that no development reserve has yet been created. The rebate will be carried forward and will be allowed as soon as adequate reserve is created. In the terms of section 6 of the Payment of Bonus Act, the amount allowed by the Income Tax Officer is undoubtedly the amount of "development allowance" which the corporation is entitled to deduct from his income under the Income Tax Act". Shri Vimadalal has not submitted for the purpose of this case that the amount claimed by the management of the Corporation or by Shri Subramanyam in his affidavit should be allowed as development rebate but he has stated just for the purpose of this case that he would be satisfied if this Tribunal accept the figure accepted by the Income Tax Officer.

26. *3.5 per cent return on capital.*—This point need not be laboured because, the Federation has shown the amount of Rs. 3,76,22,870 as admissible on this account. The three items mentioned above thus comes to:—

Depreciation	6,96,89,329
Development Rebate	8,47,42,896
8.5 per cent return on capital	3,76,22,870

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19,20,55,095



From this has to be deducted the net profit as shown in the balance sheet and the profit and loss account which is:—

1,01,26,380
18,19,23,715

27. Even supposing that the gross profits of the Corporation stand at the high figure of 11,42,30,217 that amount has to be deducted from the total amount arrived at on the basis of the three items mentioned above namely 19,20,55,095. On this basis also, the deficit is 7,78,24,878

28. It is perfectly clear, therefore, that there was no profit to the Corporation in the year in question. The answer to the question put in the schedule, which is inescapable, is that the workmen of the Indian Oil Corporation are not entitled to a bonus higher than 4 per cent for the year 1965-66. The next question does not, therefore, arise for consideration

29. This is my award. Let this be submitted to the Central Government under section 15 of the Industrial Disputes Act.

(Sd) KAMLA SAHAI, Presiding Officer.

[No 17/5/67/LRIV]

*New Delhi, the 20th August 1969*

**S.O. 3698.**—In pursuance of section 17 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, *Dhanbad* in the industrial dispute between the employers in relation to the Bhowra Colliery of Messrs Karam Chand Thapar and Brothers (Private) Limited, Central Office, Bhowra, Post Office Bhowra (Dhanbad) and their workmen, which was received by the Central Government on the 12th August, 1969.

# BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No 3 OF 1968

In the matter of an industrial dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947

PARTIES:

Employers in relation to the Bhowra Colliery of Messrs Karam Chand Thapar and Brothers (Private) Limited, Central Office, Bhowra, Post Office, Bhowra (Dhanbad).

AND

Their workmen.

APPEARANCES:

*On behalf of the employers*—Shri K. C. Nandkeolyar, Deputy Chief Personnel Officer.

*On behalf of the workmen*—Shri Prasanta Burman, Secretary, Khan Mazdoor Congress.

STATE: Bihar.

INDUSTRY: Coal.

*Dhanbad, 5th August, 1969*

## AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Bhowra Colliery of Messrs Karamchand Thapar and Brother (Private) Limited, Central Office, Bhowra, Post Office Bhowra (Dhanbad) and their workmen, by its order No. 2/8/68-LRIV

dated 4th May 1968 referred to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

**SCHEDULE**

"Whether the action of the management of Bhowra Colliery in suspending their workmen Shri Jhari Gore, Pick Miner for the period from the 10th November, 1967 to 19th November, 1967 was justified? If not, to what relief is the workman entitled?"

2 Employers filed their statement of demands. In spite of service of notice the workmen did not file their statement of demands.

3 On 16th June 1969 Shri Prasanta Burman, Secretary, Khan Mazdoor Congress, the union sponsoring the dispute has filed an application stating that the union is no longer interested in pursuing the dispute and that it may be disposed of accordingly. As no more dispute subsists for adjudication, no further enquiry is necessary. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) N. VENKATA RAO,

Presiding Officer,

Central Govt. Industrial Tribunal

(No. 2) Dhanbad.

[No. 2/8/68-LR.II.]

*New Delhi the 21st August 1969*

**S.O. 3699.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Calcutta, in the industrial dispute between the employers in relation to the management of Seetalpur Pit No. 4 Colliery of Messrs Bengal Coal Company Limited, Post Office Disergarh, District Burdwan and their workmen, which was received by the Central Government on the 12th August, 1969

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA**

REFERENCE No 26 OF 1969

**PARTIES**

Employers in relation to the management of Sitalpur Pit No. 4 Colliery of Messrs Bengal Coal Company Limited

AND

Their workmen.

**PRESENT:**

Shri B. N. Banerjee *Presiding Officer*

**APPEARANCES**

*On behalf of Employers.*—Shri B. N. Lala, Assistant Security Officer.

*On behalf of Workmen.*—Shri Basir Khan Concerned workman.

STATE: West Bengal

INDUSTRY: Coal Mines

**AWARD**

By Order No. 6/94/68-LR.II, dated March 15, 1969, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) referred the following dispute between the management of Seetalpur Pit No. 4 Colliery of Messrs Bengal Coal Company Limited and their workmen, to this tribunal, for adjudication, namely:

"Whether the management of Seetalpur Pit No. 4 Colliery of Messrs Bengal Coal Company Limited, Post Office Disergarh, District Burdwan was justified in terminating the services of their workman Shri Basir Khan, Belder Khalasi with effect from the 2nd September, 1967? If not, to what relief is the workman entitled?"

2. Both the management and the workmen filed their respective written statement. I am not, however, called upon to decide the dispute on merits because the parties have settled their dispute amicably out of Court, and in token thereof have filed a joint petition of compromise. Now that the dispute stands settled in terms of compromise, I make an award on terms of settlement filed before this Tribunal. Let the terms of settlement form part of this award.

This is my award.

Dated, August 4, 1969

(Sd.) B. N. BANERJEE,

Presiding Officer.

**BEFORE THE HON'BLE PRESIDING OFFICER CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL, CALCUTTA**

REFERENCE No. 26 OF 1969

BETWEEN

Employers in reallion to Seetalpur Colliery of M/s. Bengal Coal Co. Ltd.  
P.O. Disergarh, Dist. Burdwan.

AND

Their workmen represented by Colliery Mazdoor Union, 27, G.T. Road, Bastin  
Bazar, Asansol.

*Joint Petition of Compromise:*

The parties, above named most respectfully beg to submit as under:—

- (1) That the above matter was referred for adjudication vide Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) Notification No. 6/94/68-LRII dated 15th March, 1969
- (2) The said matter is pending before the Hon'ble Tribunal for adjudication.
- (3) That the Parties in the meantime have mutually discussed the matter and have arrived at a settlement in terms stated hereunder:

*Terms of Settlement*

- (a) The Employers shall make to Sh i Basir Khan, the workman herein concerned, an ex-gratia payment of Rs. 2058.00 (Rupees two thousand and fiftyeight only) in full and final settlement of all his claims against the employers.
- (b) The workman concerned and the union on his behalf have agreed to accept the aforesaid ex-gratia payment in full and final settlement of all the claims of the workman against the management. The said payment shall be made within 15 days from the date on which this agreement shall be filed before this Hon'ble Tribunal.
- (c) The Employers shall make payment as provided for in item (a) above, to the workman concerned and also other legal dues if any latest within 15 days from the date of filing this agreement.
- (d) The workman or his union acting on his behalf has no other claims against the management arising out of this present reference.
- (e) That the Parties will bear their respective costs of this proceeding

4. In the circumstances the parties herein concerned most respectfully beg to pray that this Hon'ble Tribunal may graciously be pleased to accept this compromise and pass an Award in terms thereof

And for this the parties as in duty bound shall ever pray.

*For the Workmen*

28-7-69.

General Secretary  
Colliery Mazdoor Union.  
27, G.T. Road,  
Bastin Bazar,  
Asansol.  
(Sd )

Signature of the Workman.

Dated, the 28th July, 1969.

*For the Employers.*

Sd./- B. N. LALA.

Assistant Security Officer,  
Bengal Coal Company Limited.  
28-7-69.

*New Delhi, the 23rd August 1969*

**S.O. 3700.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, (No. 3), Dhanbad, in the industrial dispute between the employers in relation to the Benedih Colliery of Messrs Benedih Coal Concern, Post Office Nudkhurkee, District Dhanbad and their workmen, which was received by the Central Government on the 12th August, 1969.

**THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 3)  
AT DHANBAD**

REFERENCE No. 29 OF 1969

**PRESENT:**

Shri Sachidanand Sinha, M.A.M.L., Presiding Officer.

**PARTIES:**

Employers in relation to the Benedih Colliery.

*vs.*

Their workmen.

**APPEARANCES:**

*For employers:* Shri S. K. Mukerjee, Special Officer.

*For workmen:* Shri Lalit Burman, General Secretary.

STATE: Bihar.

INDUSTRY: COAL.

*Dhanbad, dated the 4th of August, 1969*

**(AWARD)**

1. The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Benedih Colliery of Messrs Benedih Coal Concern, Post Office Nudkhurkee, District Dhanbad and their workmen, by its order No. 2/266/68-LR.II. dated the 29th April, 1969 referred to this Tribunal under section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

**SCHEDULE**

"Whether the management of Benedih Colliery of Messrs Benedih Coal Concern, Post Office Nudkhurkee, District Dhanbad, was justified in imposing idleness on Sarvashri Trilokdhari Bhar and Kirit Gope, Plick Miners, with effect from the 3rd June, 1968 and subsequently, dismissing them with effect from the 20th June, 1968? If not, to what relief are these workmen entitled?"

2. Both the employers and the Union representing the workmen filed their written statements. It is unnecessary to state the respective cases of the parties because the dispute has been settled amicably. According to the terms of compromise each of the concerned workmen are entitled to get a sum of Rs 1500/- (Rupees one thousand five hundred) only as compensation and *Ex-gratia* payment for the period of idleness from 3-6-1968 till date. Over and above the workmen are to be paid their outstanding legal dues, if any. The management has also agreed to give employment to the two concerned workmen Sarvashri Trilokdhari Bhar and Kirit Gope as and when the work of coal raising will be resumed in No. 12 seam incline and the payments as per clause (1) to the concerned workmen shall be made within a month from date of this settlement.

3. The terms must be considered satisfactory and fair. I accept the same and pass an award in terms of the joint petition of compromise at annexure 'A' which shall form part of the award. It may be submitted to the Central Government under section 15 of the Industrial Disputes Act, 1947.

(Sd/-) SACHIDANAND SINHA.

Presiding Officer.

ANNEXURE 'A'  
BEFORE THE PRESIDING OFFICER  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 3  
DHANBAD

REFERENCE No. 29 OF 1968

PARTIES:

Employees in relation to Benedih Colliery

AND

Their workmen

*Joint Petition of Compromise*

The parties above named beg to submit that the parties have settled the dispute amicably on the following terms.

*Terms of Settlement*

1. That the management of Benedih Colliery hereby agree to pay to each of the concerned workmen Sarvashri Trilokdhari Bhar and Kirit Gope a sum of Rs. 1500/- (Rupees one thousand five hundred) only as compensation and *Ex-gratia* payment for the period of idleness from 3-6-1968 till date. Over and above this the workmen will be paid their outstanding legal dues, if any.

2. That the management also agree to give employment to the two workmen Sarvashri Trilokdhari Bhar and Kirit Gope as and when the work of coal raising will be resumed in No. 12 seam incline.

3. That the payments as per Clause (1) to the concerned workmen shall be made within a month from date of this settlement.

4. That the workmen shall have no other claim from the management except as specifically mentioned above and the dispute stands resolved.

The parties pray that the Honourable Tribunal may be pleased to pass an award on the basis of above terms of settlement.

*Dated 28th July, 1969*

*For workmen:*

Sd/-

General Secretary.

Bihar Koyla Mazdoor Sabha.

*For the Employers*

For Benedih Coal Concern,

Sd/-

Partner.

Benedih Coal Concern, Benedih Colliery

[No. 2/266/68-LR.II]

*New Delhi, the 29th August 1969*

**S.O. 3701.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the National Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to Associated Cement Companies Limited, Bombay, and their workmen, which was received by the Central Government on the 20th August, 1969

BEFORE THE NATIONAL INDUSTRIAL TRIBUNAL AT DHANBAD

In the matter of a reference under section 10(1A) of the Industrial Disputes Act, 1947.

N. T. REFERENCE No. 7 OF 1967

AND

N. T. REFERENCE No. 3 OF 1968

PARTIES:

The Associated Cement Companies Limited, Bombay.

AND

Their Workmen.

**PRESENT :**

Shri Kamla Sahai, Presiding Officer.

**APPEARANCES :**

*For the Employers*—S/Shri R. J. Kollah, Advocate with S. N. Cooper and G. L. Govil.

*For the Workmen:*

Indian National Cement Workers' Federation—Shri C. L. Dudhia, Advocate.

All India Cement Workers' Federation—S/Shri P. L. Gandhi, Joint Secretary Dharadhar, General Secretary and Mrs. Mehta, Advocate.

**INDUSTRY:** Cement.

*Dhanbad, Dated the 13th August, 1969*

**AWARD**

These are two references in connection with the quantum of bonus payable for different years to the workmen of the Associated Cement Companies Ltd. The financial year of the company beings from the 1st August, of one year and concludes on the 31st July of the next year. The Associated Cement Companies came into existence in 1936 after a merger of several cement companies. It owns at present about 16 cement factories, two collieries as well as a Refractory Brick Works and Engineering Works at Shahabad. All the component parts of the Associated Cement Companies Ltd., taken together, employ about 25,000 workers including about 543 officers throughout India in its Head offices and branches. It had two factories in Pakistan also but its entire business in that country was taken over by the Government of Pakistan on the 12th March, 1965. It, therefore, ceased to have any business in Pakistan on and from that date.

2 By its order No. 17/5/66/LRIV dated the 19th October, 1966, the Central Government made a reference to the National Tribunal at Bombay for adjudication of a dispute described in the schedule as given below:—

**SCHEDULE**

"In respect of the workmen employed in the Head Office, Branches and Works including Quarries what quantum of bonus should be paid for the years 1962-63, 1963-64 and 1964-65?"

3 The above reference was numbered in the Bombay Tribunal as reference No. 2(NT) of 1967. By the Ministry's Order No. 17/4/67-LRIII dated the 5th December, 1967, the reference was transferred for disposal to the National Tribunal at Dhanbad with me as the Presiding Officer. In this Tribunal, this reference was numbered as N.T. reference No. 7 of 1967. The parties filed a compromise petition, settling their dispute as to bonus for the years 1962-63 and 1963-64. There was then a great deal of controversy between them in the first instance as to the question whether the settlement had in fact been arrived at. The management of the companies as well as the Indian National Cement Workers' Federation and various unions affiliated to that Federation supported the settlement as being full and final between the parties whereas one section of the Mancherial Cement Workers Union opposed the settlement. Ultimately, however the opposition to the settlement was given up. The prayer before me was that I should give an award in accordance with the settlement dated the 27th September, 1967 which would form part of my award. I accepted this prayer and gave an award accordingly—vide my award dated the 25th April, 1969. This disposed of a part of N.T. Reference No. 7 of 1967 i.e. to the extent of bonus for the years 1962-63 and 1963-64. This award has been published in the Gazette of India dated the 31st May, 1969. (S.O. No. 2047) at page 2171.

4 By its order No. 17/8/67-LRIII dated the 26th June, 1968, the Central Government has made another reference to this National Tribunal in connection with bonus payable by the same companies to the workmen in respect of the year 1965-66. The schedule to this reference is as follows:—

**SCHEDULE**

"In respect of the workmen employed in the Head Office, Branches and Works including quarries of the Associated Cement Companies Ltd., what quantum of bonus should be paid for the year 1965-66?"



This reference has been numbered in this Tribunal as reference No. N.T. 3 of 1968. In view of the fact that the question of bonus payable for two of the years in question namely 1962-63 and 1963-64 has already been decided by means of compromise between the parties, the question which I have to decide in respect of the two references namely N.T. reference No. 7 of 1967 and N.T. reference No. 3 of 1968 is what bonus is payable to the workmen for the years 1964-65 and 1965-66. Before proceeding to consider these questions in detail, I may mention that both the parties have admitted in this case that bonus in respect of both the years in question is payable under the Payment of Bonus Act, 1965.

5. It is also agreed between the parties that, for each of the two years in question i.e. for 1964-65 and 1965-66, the company has paid the workmen approximately 7 per cent of the basic salary/wages/dearness allowance. According to the management of the companies, the payment in 1964-65 amounted to a sum of Rs. 44.36 lakhs and the payment in 1965-66 amounted to a sum of Rs. 43.60 lakhs. The case of the company is that there was a deficit in the year 1964-65 of Rs. 131.93 lakhs so that nothing was payable as bonus to the workmen by the company for that year with the exception of approximately Rs. 23.90 lakhs as the minimum bonus @ 4 p.c. and there was a deficit of Rs. 55.86 lakhs in the year 1965-66 so that nothing was payable as bonus to the workmen for that year with the exception of Rs. 26.72 lakhs as minimum bonus @ 4 p.c.

6. I first take up the question of bonus payable for the year 1964-65.

7. Shri C. L. Dudhia, learned Advocate for the Indian National Cement Workers Federation (hereinafter referred to as the Federation) has raised several points in connection with that year and they are all in serious controversy between the parties. I may shortly summarise the points. They are as follows:—

- (i) Whether the total amount paid to the officers under the superannuation scheme should or should not be added back to the profits?
- (ii) Whether the profits of the factories situated in Pakistan should or should not be added back?  
Whether the losses arising from or expenditure incurred in that business should or should not be deducted?
- (iii) Whether the amount added by the Government in the price of cement in fixing that price should be held to be subsidy for the purposes of rehabilitation, expansion and research and should be excluded from the profits?
- (iv) Whether the management is entitled to deduct the expenses incurred over the issue of debentures?
- (v) There are general and other reserves of various kinds. Which are the amounts of reserves on which the return of 6% should be allowed under the Payment of Bonus Act?
- (vi) Should the amount recommended by the Directors as one which should be paid out of the reserves as dividend to the share-holders be treated as the actual amount of dividend and deducted out of the reserves before dividend is actually declared by the share-holders, for the purpose of computing the 6% figure mentioned in Item No. 1 (iii) of the Third Schedule of the Payment of Bonus Act?
- (vii) Whether the amount received by the company as an incentive payment viz. the amount of Rs. 13½ lakhs should be paid back and added for computing the profits?
- (viii) Can any amounts be separately held to have been capital and reserves for the business in Pakistan which has now ceased to exist?
- (ix) What amount is deductible from the gross profits as direct tax which the employers are liable to pay for the accounting year for his income, profits and gains during that year under Section 6(c) of the Payment of Bonus Act?
- (x) Is the company entitled to any set off under Section 15 of the Act?

8 I proposed now to take up each of the above points in the order to which I have mentioned them above.

(I) Whether the total amount paid to the officers under the superannuation scheme should or should not be added to the profits?

With effect from the 1st August, 1960, the company introduced what is called 'Superannuation Scheme' for officers drawing Rs. 500/- and above. The officers themselves do not make any contribution but the companies contributed 16 2/3% of the average of the basic salary of each officer for each year. This roughly amounts to about two months' salary. The amount is sent to the Life Insurance Corporation and certain benefits flow to the officers. The company stopped paying profit bonus to the officers concerned. From 1964-65, however the company pays to the eligible officers the minimum bonus of 4%.

9. Shri S. N. Cooper has stated in his evidence as M.W. 1 in connection with the superannuation scheme that Ext. W is a copy of the printed rules of the officers' superannuation fund, payable to the Life Insurance Corporation of India on account of the superannuation fund every year, that the proviso to rule 4 sub-rule 1 indicates that exemption or postponement of membership can be allowed for a period not exceeding five years or grant of total exemption could be allowed initially when the scheme was introduced and that clause 4, sub-clause 2, makes it clear that eligible employees joining the service after the 1st August, 1960 have necessarily to become members of the superannuation fund. Other points which appear from his evidence are that the scheme was started as a result of some discussion which some representatives of the Life Insurance Corporation had with the then Managing Director of the Associated Cement Companies. They explained the advantages of the superannuation scheme to him and he directed that a proposed scheme be prepared on the basis usually introduced by the Life Insurance Corporation. He also directed that, since the scheme was being introduced for the first time as suggested by the Life Insurance Corporation, salient advantages of the provisions of the scheme should be explained to the officers initially in order to find out whether a majority of the officers were in favour of such a scheme. Accordingly, the then Chief Accountant called all the departmental heads to the head office and explained the provisions and advantages of the scheme to them and requested them separately to call the officers working under each of them and to explain the advantages to them. These instructions were carried out and over 90% of the officers opted in favour of the scheme. They were then told that the scheme would be introduced as and when the Commissioner of Income Tax approved of the scheme but that, as a consideration for the same, the officers would be required to give up their bonus. In order to make the company's position safe, a declaration was obtained later from some of the officers in the form of the letter (ext. M9). Mr Cooper has further stated that the company subsequently discontinued obtaining such declarations because, for several years, none of the members claimed bonus. Since it is a retirement benefit like the provident fund, it is shown accordingly in the profit and loss account. For instance, he has pointed to item No. 3, "Salaries, Wages and Payments to and Provisions for employees" under schedule—2 at page 32 of the profit and loss account (Ext. M.) Sub-item (b) under item 3 is 'contribution to provident fund and other funds'. He has stated that this item includes payments to the superannuation fund.

10. Other points which Shri Cooper has made are that the contribution by the company to the Life Insurance Corporation on behalf of each officer is a fixed sum equivalent to two months' basic salary at the average rate earned by him during each year. It does not vary with the profits. It is not payable to the officers. It is paid directly to the Life Insurance Corporation of India and no officer has a right to mortgage or encumber his fund nor has any member the right to claim the amounts contributed by the company from the Life Insurance Corporation until after the date of his death or retirement. As the principal officer, he has to submit returns under section 206 of the Indian Income Tax Act, showing the salaries, wages, dearness allowance, bonus and all other taxable payments to employees. Superannuation fund is not taxable and hence payment to that fund is not shown against the name of any employee. He has illustrated his point by saying that no income-tax officer ever tries to assess payments to superannuation fund on account of any particular officer as income but one officer at Chandigarh tried to do so and actually assessed that payment as well. The officer went in appeal and Ext. M10 is a copy of the Appellate order by which the assessment was quashed on the ground that the benefit to the officer was not in lieu of bonus.

11. Shri Dudhia has drawn my attention to section 34(3) of the payment of Bonus Act which provides that no provision of the Act "shall be construed to preclude employees employed in any establishment or class of establishments from entering into agreement with their employer for granting them an amount of bonus under a formula which is different from that under this Act". He has

vehemently urged that the superannuation scheme is nothing but an alternative scheme for payments of bonus and that the Payment of Bonus Act cannot be held to come in conflict with it. In my opinion, there is no substance in this argument. The first thing to be noticed is that the alternative payment under sub-section 3 of section 34 of the Payment of Bonus Act must be an 'amount of bonus' although it may be under a different formula. There is no reason to suppose that the amount paid to officers under the superannuation scheme is an amount of 'onus'. The amount payable is fixed and cannot be varied. It is not taxable but bonus which is paid is always taxable. The scheme has been brought into existence not by the Associated Cement Companies alone but by the Associated Cement Companies, the Life Insurance Corporation and the Commissioner of Income Tax, all of whom agreed together in order to establish the scheme for conferment of some benefits upon officers of the Associated Cement Companies in view of agreed contributions made on their behalf by the cement companies. The mere fact that the officers have to give up their bonus except the minimum bonus payable under the Payment of Bonus Act cannot convert the payment made to the Life Insurance Corporation into bonus. This conclusion is strengthened by the fact that the concerned employees cannot touch or mortgage any part of the contribution made to the Life Insurance Corporation on their account.

2. The entire facts leave no room for doubt that the superannuation fund is a purely retirement benefit for an officer of the Associated Cement Companies. In the event of his death before drawing the benefits of the scheme, those benefits go to his wife and/or members of his family.

13. In these circumstances, there is no escape from the conclusion that Shri Durrani's argument cannot be accepted. Hence the amount of Rs. 12.37 lakhs which the Federation seeks to add to the profits cannot be so added.

14. *Point No. II Whether the profits of the factories situated in Pakistan should or should not be added back?*

*Whether the losses arising from or expenditure incurred in that business should or should not be deducted?*

It seems manifest to me that what has to be done under the Payment of Bonus Act is to ascertain the net profits of a company from its business in India. If the company has a business outside India, the losses incurred in or expenditure relating to that business, if credited to the profit and loss account, should be added back so that the loss or expenditure does not appear in the Indian balancesheet and profit and loss account of the company. Similarly, if profits or/and receipts relating to any such business outside India are credited to the profit and loss account, the total of the profits and receipts must be deducted so as to leave no effect of the addition of the profits and/or receipts from the foreign business upon the Indian balancesheet and profit and loss account of the company. This has been achieved by the legislature by making provisions under item No. 3(e) and item No. 6(b) of the second schedule.

15. Shri Cooper has stated in his evidence that the Pakistani account was prepared from certified trial balance received from M/s. A. F. Ferguson and company of Karachi, who were the company's Auditors in Pakistan, that according to the usual practice, the account for the period from the 1st August, 1964 to the 12th March, 1965 of the business in Pakistan was prepared at this end and was sent for certification to Karachi, that due to hostilities between India and Pakistan, the same was not received duly certified until the 12th June, 1967 though the draft profit account was forwarded to Karachi on the 25th November, 1965, that the auditors in India could not wait until the 12th June, 1967 for certifying the account of 1964-65 and that they, therefore, prepared the profit and loss account including the Pakistani expenses taken from the certified trial balances sent by the Pakistani Auditors before the out-break of hostilities. He has further said that the account was subsequently certified and received from the custodian of enemy property, Lahore, with a letter dated the 12th June, 1967 all of which have been collectively marked Ext. M2. He has added that the company cannot rely upon the accounts which were prepared in the company's absence charging disputed items of expenses. He has put in evidence a profit and loss account of the Pakistan business for the period from the 1st August, 1964 to the 12th March, 1965 as certified by K. S. Aiyar and Co. the company's Indian Auditors. This has also been marked as Ext. M11. The company has prepared a statement (E 1. M12) on the lines of Schedule II. Shri Cooper has stated that this has been prepared to show the break-up of the gross profits. He has then claimed a sum of Rs. 49,13,000/- as a deduction under item 6(b) of the Second Schedule.

16. Ext. M11 shows that the total income and expenditure of the Pakistani business of the Associated Cement Companies Limited, was a sum of Rs. 2,09,58,460.38 paise including a sum of Rs. 49,11,445.52 paise brought down as gross profits (i.e. profits before depreciation, assets written off, taxation and bonus to employees.) and a sum of Rs. 6,86,144.69 paise as net loss. The total of the gross profits brought down and the net loss amount to Rs. 55,97,590.21 paise. The Auditors, M/s. K. S. Aiyar and Co., have certified that "the above figures stand incorporated in the combined profit and loss account of the company for the year ended 1st July, 1965". Ext. M12 shows that the total receipts were Rs. 49.13 lakhs though the company has shown this amount as losses of or expenditure relating to the Pakistani business. The companies have done this because they have made a distinction between gross profits and net profits. It appears that the Second Schedule makes no such distinction for the purpose of calculation under it.

17. In view of the above certificate of the Auditor and in view of the clear provisions made in items 3(e) and 6(b) of the Second Schedule read with footnote 2, it seems to me to be quite clear that the Pakistani losses or expenditure of the company and the Pakistani profits or receipts of the company have to be so added and/or deducted that no effect of either is left on the Indian balance-sheet and profit and loss account of the company. If, as stated by the auditors, the losses or expenditure of the company have been incorporated in the combined profit and loss account, the only way by which the effect of showing the losses or expenditure can be removed is by adding back that amount. It is also clear that, if the profits or receipts of the company from the Pakistani business, have been incorporated in the combined profit and loss account, the only method by which its effect can be removed will be by deducting the amount. I may mention that Ext. M11 shows the company's expenditure in Pakistan to be as follows:—

(1) Provision for depreciation including depreciation of loose tools.	3,30,636.00
(2) Good will and other fixed assets	4,35,988.00
(3) Provision for taxation.	47,25,531.00
(4) Provision for bonus to employees.	1,05,435.21

The total of these four items comes to .	55,97,590.21
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18. If the net loss of Rs. 6,86,144.69 goes out, the balance which remains is 49,11,445.52. This amount must be deemed to be the amount of receipts from the Pakistani business within the meaning of item 6(b) of the Second Schedule. That amount has, therefore, to be deducted.

19. Shri Duthia has argued that the losses or expenditure relating to the business in Pakistan which amount to Rs. 6.86 lakhs should be added back. This is what he has done on behalf of the two Federations in Ext. MW1(a). He has, however, not deducted the receipts relating to the business in Pakistan which amount in round figures comes to Rs. 49.13 lakhs. In my opinion, it cannot be one sided. The provisions of both items 3(e) and 6(b) of the Second Schedule have to be given effect to at the same time. That will alone remove from the Indian balance-sheet and profit and loss account the effect of both losses or expenditure and receipts from the Pakistani business. I, therefore, held that Rs. 6.86 lakhs should be added back as provided in item 3(e) and Rs. 49.13 lakhs should be deducted as provided in item 6(b) of the Second Schedule. These are my conclusion on point No. 2.

20. Point III. *Whether the amount added by the Government in the price of cement to fixing that prices should be held to be subsidy for the purposes of rehabilitation, expansion and research and should be excluded from the profits?*

It appears from the evidence of Shri Cooper that the price of cement has been controlled by Government from 1942 or 1943. Tariff commissions used to be set up for the purpose of calculating and recommending fixation of the price of cement from time to time. In 1958, the Tariff commission recommended payment of rehabilitation allowance for seven companies; the allowance varying from one rupee to four rupees per ton. Altogether, rehabilitation allowance was ultimately given to six companies including the Associated Cement Companies Limited. The rehabilitation allowance fixed for payment to the Associated Cement Companies in 1961 was a sum of Rs. 2/- per ton. Income Tax is paid by the company on



the gross amount included in the price on account of rehabilitation allowance. During all the years in which cement was controlled by Government, the price including the rehabilitation allowance of Rs. 2/- per ton was paid by the consumer and received directly by the company. In 1956, the State Trading Corporation was introduced. Therefore, the rehabilitation allowance was paid to the company by the State Trading Corporation. This arrangement continued until the 31st December, 1965. From the 1st January, 1966, cement was decontrolled. Under Government instructions, however, the cement manufacturers established an association which was registered as a company under the Companies Act. It was styled as Cement Allocation and Co-ordination organisation (Caco). This association performed the functions of the State Trading Corporation so far as payment of the rehabilitation allowance was concerned.

21. It appears that the Government thereafter allowed to the cement companies an increase in the price of cement to the extent of Rs. 4/- per ton net i.e. free from tax or Rs. 8.10 gross i.e. subject to tax. This increase was earmarked for expansion and was realised by Caco from the customers of cement and then paid to the cement manufacturers concerned. Thus, the company got the retention price from Caco instead of State Trading Corporation during the de-control period from the 1st January, 1966 upto the 31st January, 1967.

22. The Government referred in their correspondence with the cement companies to the increased payments of Rs. 2/- and later of Rs. 8.10 gross as rehabilitation allowance and expansion allowance. I may refer first to the resolution of Government, bearing No. CEM-8(27)/61 dated the 31st October, 1961 which forms annexure VI to Ext. M2. The prices of cement fixed for different manufacturers have been mentioned in this annexure. The extra prices have also been mentioned in paragraph 6(d). Government have stated:—

"(d) The above prices are inclusive of an allowance of Rs. 2.00 per tonne towards rehabilitation and other approved purposes such as research, development, etc. The present procedure applicable to rehabilitation allowance will apply in this regard".

In sub-paragraph (g) of the same paragraph i.e. 6, Government have stated:—

"(g) The resultant selling price of naked cement will be Rs. 94.00 per tonne plus excise duty".

In fixing the prices, Government have taken into account the interval that has lapsed since 1st July, 1961. The above ex-works and selling prices are being notified under the provisions of the Cement Control Order and will be effective from 1st November, 1961. Government will continue to watch the performance of the industry in consonance with these decisions and take such steps as may be called for in the interests of consumers".

Annexure VII(3) to the same exhibit i.e. Ext. M2 is letter No. CEM-8(34)/61 dated the 27th September, 1962. In this letter, Government have mentioned some details of the strict control which they wished to exercise over withdrawal of the amounts of money to be paid in "(a) Development and Rehabilitation Account and (b) Research account, calculated at the prescribed rate", which should thenceforward be paid into the respective accounts within 14 days of the expiry of each month. Some rules have been attached with the letter for the maintenance and operation of (a) development and rehabilitation account and (b) research account, for cement industry. Rules 2 and 4 stand as follows:—

"2. Within fourteen days of the expiry of each month each producer shall pay into the 'Research Account' a sum of 10 nP. and into the 'Development and Rehabilitation Account' a sum of 95 nP. per tonne of cement sold in India during the month concerned. The balance of 35 nP. per tonne would be available towards tax liabilities. No such amount shall be payable in respect of cement intended for export outside India".

"4. Rehabilitation of plant and machinery shall be confined only to replacement and improvement of major items of plant and machinery and related civil construction in the cement industry. It shall not include normal maintenance and repairs, other kinds of non-productive civil construction, installation expenses and services. Drawals from the Development and Rehabilitation Account will be allowed to the extent of 50% of admissible items of expenditure as above".

23. Annexure IX to the affidavit (Ext. M3) is Government's reply to a letter sent by the Cement Manufacturers' Association. It bears No. 9-15/65-CEM.II dated the 28th December, 1965. Paragraph (h) of this letter refers to expansion. I may quote the whole of this paragraph which is as follows.—

"(h) The net extra resources amounting to Rs. 4/- per tonne of cement despatches from 1st January, 1966 should be utilised to build up resources for the purposes of expansion only. The words "Rehabilitation and modernisation" occurring in para (i) and "production" occurring in line 10 of para (a) of the note circulated with this department's letter dated the 13th December, 1965 will accordingly be deleted. A separate proforma account should be maintained by each producer under the head "Expansion Research Account" and this account should be credited at the rate of Rs. 4/- per tonne of all varieties of cement despatched from 1st January, 1966. Withdrawals from this fund will be made only for the purpose of expansion of cement unit/group, with reference to specific projects, either expansion of existing factories or for new undertakings, in respect of which letters of intent have been obtained from Government and are valid. Withdrawals from this account should be restricted to essential items related to expansion viz. purchase of plant and machinery and equipment. For meeting the expenditure on the other items which cannot obviously be met fully from this account the cement units should use their own resources or obtain them from elsewhere. At the end of each quarter, the Cement Manufacturers' Association should furnish to the Government a consolidated statement showing accruals to the Account in respect of each unit, withdrawals if any, made from the account and the purposes for which such withdrawals have been made, and the closing balance at the end of each quarter".

Thus, the account which was called the rehabilitation and modernisation account came to be called "the expansion reserve account". The allowance was payable to the cement manufacturers by Caco.

24. Shri Cooper has filed audited certificates marked Ext. M13(a) and M13(b) showing that the expansion reserve was duly created and the expenditure which was incurred thereon was in accordance with the Government's requirements. He has admitted that in all the companies correspondence with the Government, the company spoke of the rehabilitation allowance and expansion allowance but never called it subsidy. He has further admitted that, even before the Tariff Commission, the companies always claimed rehabilitation and expansion allowance without calling the allowance as subsidy. He has then stated that the word subsidy was not used in any correspondence between the Cement Manufacturers and the Government and that, when he has used the word subsidy in his examination in chief, he has put it down as his own interpretation of what, in his opinion, was actually allowed. He has further conceded that, during the discussion between a team of Cement Manufacturers on one side and Secretaries and other officials of Government of India on the other, the manufacturers suggested that the amount of Rs. 8.10 per ton should be called expansion subsidy but the Government officials replied that that would require parliamentary sanction and, therefore, the expressions 'expansion and rehabilitation allowance' should be allowed to stand. He has further admitted that the Cement Manufacturers used to get the amount of Rs. 2/- per ton and, during a later period, Rs. 8.10 per ton as rehabilitation and expansion allowance from the consumers and not from the Government but he has added that they used to get the amounts because they had been added in the prices by the Government.

25. The first question which now arises is whether the amounts mentioned above were paid to the cement manufacturers including the Associated Cement Companies Limited, as subsidy from the Government or from any body corporate established by any law for the time being in force. Unless this point is established in the affirmative, the companies' case that it is entitled to a deduction of the total amount received by it on the basis of Rs. 2/- per ton at one time and Rs. 8.10 per ton at another must fail. A very strong point against the Companies is that, although the Government exercised very strict control over the amounts received by the companies as mentioned above which they called rehabilitation allowance or expansion allowance, Government officials refused to agree to the suggestion that those allowances should be called rehabilitation or expansion subsidy. If



is clear, therefore, that Government was not agreeable to the allowance being called subsidy. I do not think that they could have been unaware of the fact that, if the allowance paid to the companies was subsidy, they might come under item 6(g) of the Second Schedule of the Payment of Bonus Act and, on that basis the companies might become entitled to deduct the total amount from the gross profits for the purpose of bonus.

26. It is not the company's case before me that they are entitled to deduction under item 6(g) of the total amount received by them from the gross profits if the allowance was a mere allowance and was not a subsidy. In any case, the bonus commission stated definitely in paragraph 10.10, 10.12, 12.1 and 17.5 that rehabilitation allowance should not be allowed to the managements as a prior charge. Shri Dudhia has read over extracts from the Parliamentary debates of September, 1964 showing that the then Minister of Labour spoke about rehabilitation allowance and said that employers could not have both development rebate and rehabilitation allowance. Under section 6(b) of the Payment of Bonus Act, employers are entitled to deduct as a prior charge any amount by way of development rebate or development allowance which he is entitled to deduct from his income under the Income Tax Act. This is obviously the reason why the legislature did not make any provision in the Act for employers being entitled to deduct any amount as rehabilitation or expansion allowance. Shri Kollah has attempted to bring the allowance under the name of subsidy merely for the purpose of being enabled to deduct the total allowance from the Gross profits. In my opinion, this attempt is wrong. In spite of the strict control over the income from the additional price added to the price of cement for the sake of rehabilitation or expansion, the Government had no power to deprive the workers of the bonus which under the terms of the Payment of Bonus Act, they became entitled to receive. The allowance was subject to income tax and the Government did nothing to get a provision made to the effect that the allowance would be free from income tax. Thus, they did not allow any deduction in their own income. It is difficult, therefore, to presume that they contemplated that, in spite of the provisions of the Payment of Bonus Act, the workers would not be entitled to have their full share of bonus.

27. For the reasons given above I disallow the claim of the companies to a deduction of Rs. 81.23 lakhs on the basis that it was subsidy in the year 1964-65 and their claim for deduction of a sum of Rs. 229.50 lakhs on the same ground for the year 1965-66.

28. *Point No. IV. Whether the management is entitled to deduct the expenses incurred over the issue of debentures?*

The expenditure over this item has been given in Ext. M19. It appears from this exhibit that stamp duty and other expenses over other items take together total Rs. 20.88 lakhs. Shri Cooper has admitted in his evidence that, in paragraph 6 of the Director's report for 1964-65 (Ext. M), the Chairman has stated that expenses on issue of debentures are capital expenses. He has asserted, however, that, according to the decision of the Supreme Court in the case of India Cement Limited—(the reference is 60 I.T.R. 52) the expenses are revenue expenses for income tax purposes. I am of opinion that the expenses incurred in the issue of debenture would, according to the decision of the Supreme Court, be revenue expenses. I, therefore, hold that the employers are entitled to deduct this amount from the gross profits.

29. *Point No. V.—There are general and other reserves of various kinds. Which are the amounts of reserves on which the return of 6 per cent should be allowed under the payment of Bonus Act?*

There are general and other reserves of various kinds. The reserves have been put under different names, e.g. deferred taxation reserve, plant reinstatement reserve, development and rehabilitation reserve, general reserve etc. It has been stated on behalf of the companies that different reserves have been created and the names of those reserves have been differently fixed in order to indicate the general purpose for which the reserves have been created but there is no watertight compartment. Money can be freely transferred from one reserve to another so that the total amount of all the reserves can be treated as general reserve. Shri Cooper has referred in his evidence to two instances. He has said that deferred taxation reserve is merely a reserve to which the companies can fall back in case the taxation is higher, that it is not a liability but is a reserve which the company can utilise in case of need and that, in order to prove this point, he can

show that the company has itself transferred money from taxation reserve to general reserve. He has also added that the name of the reserve is merely an accounting terminology. He has pointed for instance to page 35 of the balance-sheet for 1964-65 (Ext. M). It appears from item 4 at page 35 that a sum of Rs. 30,000 was transferred from plant reinstatement reserve to the general reserve. Another instance which he has mentioned is that different kinds of reserve have been shown at pages 28 and 29 of the balance-sheet for 1965-66 (Ext. M1). Entries at page 28 show that an amount of Rs. 1,50,37,600 was transferred to the general reserve from the deferred taxation reserve and an amount of Rs. 1,86,00,000 was transferred from the profit and loss account to the general reserve. He has concluded that the transfers indicate that the plant reinstatement reserve and the other reserves are not water-tight nor are they ear-marked. He further says that the expansion reserve shown under item No. 7 at page 22 of Ext. M1 at 96,65,681 has been mentioned therein for the purpose of Government's satisfaction and that the company can, on its own, transfer the entire expansion reserve to general reserve.

30. There seems to be no material on the record which can lead to the conclusion that reserves kept under the name cannot be transferred to the general reserve. In view of the examples mentioned by Shri Cooper, I am satisfied that the reserves are not water-tight, or ear-marked and that an amount from one reserve is liable to be transferred to the general reserve etc. In these circumstances, I hold that the entire amount kept under reserves bearing different nomenclatures of reserves will be treated as reserves over which 6% will be allowed to the employers under item No. 1(iii) of the Third Schedule as provided in section 8(d) of the Payment of Bonus Act.

31. *Point No. VI.—Should the amount recommended by the Directors as one which should be paid out of the reserves as dividend to the shareholders be treated as the actual amount of dividend is actually declared by the shareholders, for the purpose of computing the 6 per cent figure mentioned in Item No. 1(iii) of the Third Schedule of the Payment of Bonus Act?*

The words used in item No. 1(iii) of the Third Schedule appear to lend themselves to the interpretation that the employers would be entitled to deduction of 6% of their reserves as shown in its balancesheet as at the commencement of the accounting year". A company, however, knows, as do all the share-holders, that dividend would be paid out of the reserves shown in the company's balance-sheet at the commencement of the accounting year because that is the recommendation of the Directors and the share-holders, at their meeting, would ordinarily act upon those recommendations. It is difficult for me to contemplate that a difference should be made between a company which shows its reserve at the commencement of the accounting year after deducting the dividend recommended by the Directors and another company which includes the dividend as so recommended by the Directors in the reserves and thereafter actually pays out the dividend in terms of the subsequent resolution of the share-holders. It seems to me that the reserves of both the companies should be treated on one and the same footing. Dealing with the cases of Voltas and Volkarts of India Limited, I had to deal with two companies, each of which had dealt with the reserves in different manners, as I have just indicated. In Voltas case, the reserves included the dividend which was likely to be declared by the share-holders on the Directors' recommendation but I said that, in fairness, it was right that the reserves should be held to be the balance after deducting the dividend payable by the share-holders on the basis of the recommendation of the Directors. In my opinion, the present case is also one in which the reserves should be held to be what is left after deducting the dividend payable to the share-holders on the recommendation of the Directors.

32. *Point No. VII. Whether the amount received by the company as an incentive payment viz. the amount of Rs. 13-1/2 lakhs should be paid back and added for computing the profits?*

It seems that the Government of India declared that factories which produced more than a certain amount of cement in the year 1964 would get an incentive payment. Six of the factories of the Associated Cement Companies Limited qualified for the incentive award along with some other factories. The A. C. C. Limited. was accordingly given a sum of Rs. 13.54,000 as an incentive payment and this amount was also given to the companies by an extra amount being added to the price of cement payable to it. The workers of Kymore raised a dispute to the effect that they were entitled to share in the payments made. The matter

was referred to Arbitrators. According to their award, 50% of the payment was to go to the employers and 50% to the workers. The amount of 50 per cent payable to the workers is in the process of being paid to the workers of all the six factories which qualified for the award of incentive payment. The question which has now been raised is whether the amount of 50% payable to the employers should be included in the profits so as to be distributed to the workers as bonus. In my opinion, it will be extremely unfair to call upon one party i.e. the employers to bring out their share of the incentive payment unless the workers are also called upon to bring to the hotch-pot their share of the incentive. That will mean that the workers of 6 factories who alone are to share 50% of the incentive payment among themselves should disgorge whatever they have got under the arbitration award so that that amount as well as the amount of the employers' share should be distributed among the workers of all the factories of the A. C. C. Companies to the extent of the allocable surplus i.e. 60 per cent. It seems to me, however, that this is not what is legally required. The incentive payment cannot be treated to be part of the gross profits so that an attempt should be made to calculate the net profits in accordance with the method laid down in the Payment of Bonus Act. The payment was an incentive payment and, when arbitrators have awarded 50% of the payment to the workers of 6 factories, the workers of other factories cannot be held to be entitled to have any part of it as bonus. In these circumstances, I hold that the claim of the Federation to bonus out of the amount of 6.77 lakhs is unjustified. This claim is, therefore, disallowed.

33. Point No. VIII. *Can any amounts be separately held to have been capital and reserves for the business in Pakistan which has now ceased to exist?*

There is no material to show that the business in Pakistan had a separate capital and separate reserves. The business was in existence at the commencement of the accounting year, 1964-65, and the entire business was discontinued about 4½ months prior to the last date of that accounting year i.e. on the 12th March, 1965. The audited balancesheet as of the 31st July, 1965 does not show any decrease in paidup capital and reserves as compared with the position on the 1st August, 1964. This indicates strongly that there were no separate paid up capital or reserves for the Pakistan business.

No provision in the Payment of Bonus Act has been brought to my notice which lays down any method for adjustment of paid up capital and reserves of a company so far as business outside India is concerned. This also shows that the legislature did not contemplate that there would be separate paid-up capital and separate reserves of a company for its business outside India. I hold accordingly.

34. Point No. IX. *What amount is deductible from the gross profits as direct tax which the employers are liable to pay for the accounting year for their income, profits and gains during that year under section 6(c) of the Payment of Bonus Act?*

According to my findings, calculation has been made as to the amount of direct tax which the employers are liable to pay for their income, profits and gains during the accounting year. It has been found to be Rs. 177.99 lakhs. This is therefore held to be the amount of direct tax.

35. Point No. X. *Is the company entitled to any set off under section 15 of the Act:—*

Before I can answer this question, it will be necessary for me to calculate what amount can be held to be the allocable surplus in this case. For the purpose of this calculation, I propose to take the calculation of bonus given by both parties in Ext. MW1(a) and also to give my findings. The chart as prepared by me in separate sheets is attached to this award. The chart for the year 1964-65 shows that there is no surplus at all in the amount of profits. There is, therefore, no question of the company being in a position to pay any bonus to the workmen. They had, however, to pay under section 10 of the Payment of Bonus Act 4% of the salary and/or wages earned by the employers during this accounting year as minimum bonus. Having already paid 7% of the salary and/or wages of the employees, they have nothing further to pay.

36. The question which now remain is whether the company is entitled under section 15(2) of the Payment of Bonus Act to any set off. That sub-section reads:—

"15(2) Where for any accounting year, there is no available surplus or the allocable surplus in respect of that year falls short of the amount of

minimum bonus payable to the employees in the establishment under section 10, and there is no amount or sufficient amount carried forward and set on under sub-section (1) which could be utilised for the purpose of payment of the minimum bonus, then, such minimum amount or the deficiency, as the case may be, shall be carried forward for being set off in the succeeding accounting year and so on up to and inclusive of the fourth accounting year in the manner illustrated in the Fourth Schedule".

37. There has been a controversy between the parties on the question whether the employers paid the bonus to their employees voluntarily and gratuitously or at the request of the employees. In my opinion, this controversy is completely beside the point. In view of the words of the section, it is clear that the employers must pay the minimum bonus to the employees in an accounting year in which there is no available surplus or no sufficient allocable surplus at all. That was just the position in that accounting year. The employers have, therefore, paid the minimum bonus. According to section 15(2) of the Act, the employers would be entitled to a set-off in the succeeding accounting year and so on up to and inclusive of the fourth accounting year to the extent of the amount of the deficiency in the payment of the minimum bonus. The minimum bonus payable for this accounting year, 1963-64 has been calculated to have been Rs. 23.90 lakhs. The deficit being much larger, the whole of this minimum bonus i.e. Rs. 23.90 lakhs will have to be carried forward for being set off.

1965-66

38. I now take up the question of quantum of bonus payable for the year 1965-66. I will discuss the points relating to this accounting year under the same headings as for the year 1964-65.

*Point No. I.*—My answer for the year 1965-66 is the same as that in the case of 1964-65.

*Point No. II.*—This point does not arise for the year 1965-66 as the business in Pakistan ceased to exist before the commencement of this year.

*Point, III.*—So far as this point is concerned, my decision is the same as that in the case of 1964-65. As I have already mentioned, the companies claim to a deduction of the sums of Rs. 33.77 and Rs. 195.73 lakhs in this year as subsidy is disallowed.

*Point No. IV.*—This point does not arise in so far as this accounting year is concerned.

*Point Nos. V and VI.*—My decision on this point of this year is the same as that in the year 1964-65.

*Point No. VII.*—This point does not arise for this accounting year.

*Point No. VIII.*—My decision for this accounting year is the same as that in the case of the accounting year 1964-65.

*Point No. IX.*—According to my findings, calculation has been made as to the amount of direct tax which the employers are liable to pay for their income, profits and gains during this accounting year. It has been found to be Rs. 354.07 lakhs. I hold accordingly.

*Point No. X.*—Before I can answer this question it will be necessary for me to calculate what amount can be held to be the allocable surplus in this case. For the purpose of this calculation, I propose to take the calculations of bonus given by both parties in Ext. MW2(a) and also to give my findings. The chart as prepared by me in separate sheet is attached to this award. The chart for the year 1965-66 shows that the available surplus comes to Rs. 62.07 lakhs. The allocable surplus at 60% of the available surplus comes to Rs. 37.42 lakhs. Set off has to be deducted to the extent of the amount carried over from the last accounting year to be set off which is Rs. 23.90 lakhs. The net allocable surplus is, therefore, Rs. 13.52 lakhs. Bonus which has been paid for this accounting year amounts to Rs. 43.60 lakhs, but I am not concerned with the whole of that amount because that amount was paid on the basis of 7% of the salary and/or wages. The amount with which I am concerned with is the amount of minimum bonus paid on the basis of 4% of the salary and/or wages. The amount of minimum bonus which was paid by the company to the employees was a sum of Rs. 26.72

lakhs. From this amount has to be deducted the total amount of net allocable surplus at Rs. 13.52 lakhs. After this deduction, the balance which remains is Rs. 13.20 lakhs. This is the amount which will now be carried forward to the succeeding accounting year and so on up to and inclusive of the fourth accounting year for being set off.

39. This is my award for the bonus payable by the employers to the employees of the Associated Cement Companies Limited, for the years 1964-65 and 1965-66. Let a copy of this award be submitted to the Central Government under section 15 of the Industrial Disputes Act, 1947.

Sd./- KAMLA SAHAI,  
Presiding Officer.

*Computation of Gross Profit for the accounting year ended 31st July, 1965, as per the Second Schedule of the Payment of Bonus Act, 1965*

	Amount computed by the two Federations in lacs	Amount computed by the company in lacs	Amount accepted by both parties in lacs	Amount accepted by me (Tribunal) in lacs
1 Net Profit as per Profit and loss account . . . . .			170.18	170.18
2 Add back provision for :				
(a) Bonus . . . . .			44.05	44.05
Amount paid towards officers superannuation . . . . .	12.37			
(b) Depreciation . . . . .			299.36	299.36
(c) Direct taxes, including the provisions (if any) for previous accounting years . . . . .		202.60		202.60
Income tax deducted at source on dividend and interest on Investment . . . . .		2.28	204.88	2.28 204.88
(d) Development Rebate Reserve			84.20	84.20
(e) Any other Reserve . . . . .			..	..
TOTAL OF ITEM NO. 2 . . . . .			632.49	632.49
TOTAL OF ITEM NO. 1 & 2 . . . . .				802.67
3 Add back also :				
(a) Bonus paid in respect of pre- vious accounting year . . . . .	—	..	..	..
(b) Donations in excess of the amount admissible for Income- Tax . . . . .		0.57		0.57



( ) Any annuity due or commuted value of any annuity paid under the provision of section 280 D of the Income Tax Act during the Accounting year . . .		..			
(d) Capital expenditure (other than capital expenditure on scientific research which is allowed as a deduction under any law for the time being in force relating to direct capital) and capital losses (other than losses on sale of capital assets on which depreciation has been allowed for Income Tax of agricultural Income-Tax . . .			9.41	9.41	
(e) Losses of, or expenditure relating to any business situated outside India . . .		6.86	—	6.86	
TOTAL OF ITEM NO. 3 . . .					16.84
TOTAL OF ITEM NO. 1, 2 & 3 . . .					819.51
4 Add also Income, profits or gains (if any) credited directly to reserves . . .			0.40	0.40	
(i) Capital receipts and capital profits (including profits on the sale of capital assets on which depreciation has not been allowed for income-tax or agricultural income-tax) . . .		..	..	..	
(ii) Profits of, and receipts relating to any business situated outside India . . .		..	..	..	
(iii) Income of foreign concern from investments outside India . . .		..	..	..	
TOTAL OF ITEM NO. 4 . . .				0.40	0.40
5 TOTAL OF ITEM NO. 1, 2, 3 & 4 . . .					819.91

	Amount computed by the two Federations in lacs	Amount computed by the company in lacs	Amount accepted by both parties in lacs	Amount accepted by me (Tribunal) in lacs.
6 Deduct :—				
(a) Capital receipts and capital profits (other than profit on the sale of assets on which depreciation has been allowed for income-tax or agricultural income-tax . . . . .	..	..	..	..
(b) Profit of, and receipts relating to, any business situated outside India . . . . .		49.13	..	49.13
(c) Income of foreign concerns from investments outside India . . . . .		..	..	..
(d) Expenditure or losses (if any) debited directly to reserve other than :				
(i) Capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax or agricultural income tax . . . . .	..	..	..	..
(ii) Losses of any business situated outside India . . . . .	..	..	..	..
(iii) Net payments from Works welfare benefit reserve . . . . .			0.08	0.08
(iv) Debenture issue expenses . . . . .		29.88	29.88	29.96

(e) In case of foreign concern proportionate administrative (over-head) expenses of Head Office allowable to Indian business

(f) Refund of any direct tax payable in any previous accounting years, and excess provisions, if any, or previous accounting year relating to bonus, depreciation, taxation or development rebate or development allowance, if written back  $\frac{1}{2}$

(g) Subsidy, if any received from Government or from any body corporate established by any law for the time being in force

TOTAL OF ITEM NO. 6

7 Gross profit for purposes of bonus (item No. 5 minus item No. 6) as per the Second Schedule

Less :—Sums deductible under section 6 of the Payment of Bonus Act, 1965 :

(a) (i) Depreciation under subsection (1) of section 32 of the Income Tax Act, 1961

3.2

3.20

1.21

82.29

737.62

292.44

292.44

	Amount computed by the two Federations in lacs	Amount computed by the company in lacs	Amount accepted by both parties in lacs	Amount accepted by me (Tribunal) in lacs
(ii) Allowance in respect of scientific Research under section 35 of the Income- Tax Act, 1961 . . . . .			8.52	8.52
(b) Development Rebate . . . . .			112.26	112.26
(c) Direct taxes . . . . .	230.01	129.54	..	177.99
(d) Return at 8.5% on paid up capital . . . . .	138.12	162.11	..	162.11
(e) Return at 6% on Reserve as at 1-8-64 (Total reserve Rs. 1276.53 lakhs minus dividend Rs. 228.90 lakhs = Rs. 1,047.63 lakhs . . . . .	16.16	76.59	..	62.86
Deficit . . . . .				78.56
Allocable surplus—60% . . . . .				NIL
1 Net Profit as per Profit and loss account . . . . .			177.99	187.94
2 Add back provision for :				
(a) (i) Bonus . . . . .		45.00		45.00
(ii) Amount paid towards officers superannuation . . . . .	13.88			..
(b) Depreciation . . . . .		335.17		335.17

(c) Direct taxes, including the provisions (if any) for previous accounting years . . . .	309.83	349.83		
Income tax deducted at source on dividend and interest on investment . . . .	2.43	312.31	2.48	312.31
(d) Development Rebate Reserve		93.98		93.98
(e) Expansion Reserve . . .		96.66		96.66
(f) Any other reserve . . . .		..		..
TOTAL OF ITEM NO. 2 . . .			883.12	883.12
TOTAL OF ITEM NO. 1 & 2 . . .				1071.06
3 Add back also :				
(a) Bonus paid in respect of previous accounting year . . . .	..	..	..	..
(b) Donation in excess of the amount admissible for Income-Tax . . . . .		0.08		0.08
(c) Any annuity due or commuted value of any annuity paid under the provision of section 280 D of the Income Tax Act during the accounting year . . . .	..	..	..	..
(d) Capital expenditure other than capital expenditure on scientific research which is allowed as a deduction under any law for the time being in force relating to direct taxes) and capital losses (other than losses on sale of capital asset in which depreciation has been allowed for income-tax or agricultural income-tax . . . . .			12.55	12.55

	Amount computed by the two Federations in lacs	Amount computed by the company in lacs	Amount accepted by both parties in lacs	Amount accepted by me (Tribunal) in lacs
(e) Losses of, or expenditure relating to any business situ- ated outside India	..	..	..	..
TOTAL OF ITEM NO. 3				12.63
TOTAL OF ITEM NO. 1, 2 & 3.				1083.69
4 Add also income, profits or gains (if any) credited directly to reserves.			0.42	0.42
(i) Capital receipts and capital profits (including profits on the sale of capital assets on which depreciation has not been allowed for income-tax or agri- cultural income-tax)	..	..	..	..
(ii) Profits, of and receipts relat- ing to any business situated outside India	..	..	..	..
(iii) Income of foreign concern from investments outside India.	..	..	..	..
(iv) Net accretion to Works Wel- fare Benefit.	..	..	0.05	0.05
Total of item No. 4			0.47	0.47
5 Total of item No. 1, 2, 3 & 4				1084.16



6 Deduct :

(a) Capital receipts and capital profits (other than profit on the sale of assets on which depreciation has been allowed for income-tax or agricultural income-tax.	..	..	..	..
(b) Profit of, and receipts relating to, any business situated outside India	..	..	..	..
(c) Income of foreign concerns from investments outside India	.	..	..	..
(d) Expenditure or losses (if any) debited directly to reserve other than :				
(i) Capital expenditure and capital losses (other than losses on sale of capital assets on which depreciation has not been allowed for income-tax or agricultural income-tax.	..	..	..	..
(ii) Losses of any business situated outside India.	..	..	..	..
(e) In case of foreign concern proportionate administrative (overhead) expenses of Head Office allowable to Indian business.	..	..	..	..
(f) Refund of any direct tax payable in any previous accounting years, and excess provisions, if any, or previous accounting year relating to bonus, depreciation taxation or development rebate or development allowance, if written back.	..	.	..	..

	Amount computed by the two Federations in lacs	Amount computed by the company in lacs	Amount accepted by both parties in lacs	Amount accepted by me (Tribunal) in lacs
(g) Subsidy, if any received from Government or any body corporate established by any law for the time being in force.				
(i) Subsidy allowed by Government in the cement price earmarked for development and rehabilitation.		33.77	..	..
(ii) Subsidy allowed by Govt. in the cement price earmarked for expansion.		195.73	..	..
		<u>229.50</u>		<u>1084.16</u>
7 TOTAL of item No. 6				
Gross profit for purposes of bonus (item No. 5 minus item No. 6) as per the Second Schedule.				
Less : Sums deductible under section 6 of the Payment of Bonus Act, 1965 :—				
(a) (i) Depreciation under sub-section (1) of section 32 of the Income-tax Act, 1961.			306.47	306.47
(ii) Allowance in respect of scientific research under section 35 of the Income-Tax Act, 1961			9.15	9.15
(b) Development Rebate			125.30	125.30
(c) Direct taxes	361.71	227.85	..	354.07
(d) Return at 8.5% on paid up capital	148.94	172.93	..	172.93
(e) Return at 6% on Reserve as at 1-8-64 (Total Reserve Rs. 1276.53 lakhs minus dividend Rs. 228.90 lakhs— Rs. 1,047.63 lakhs	5.87	68.82	..	54.17
				<u>1022.09</u>
Available surplus—60%				62.07
Allocable surplus—60% of the above				<u>37.42</u>

[No. 17/5/66-LR-IV.]

New Delhi, the 1st September 1969

**S.O. 3702.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Hyderabad, in the industrial dispute between the employers in relation to the Singareni Collieries Company Limited, Post Office Kothagudem, Andhra Pradesh and their workmen, which was received by the Central Government on the 25th August, 1969.

**BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) AT HYDERABAD**

**PRESENT:**

Shri Mohammad Najmuddin, M.A., B.L., Chairman, Industrial Tribunal, Hyderabad.

INDUSTRIAL DISPUTES NOS. 38 AND 48 OF 1968

**BETWEEN:**

Workmen of Singareni Collieries Company Ltd., Kothagudem Collieries, Andhra Pradesh.

AND

Employers of Singareni Collieries Company Ltd., Kothagudem Collieries, Andhra Pradesh.

**APPEARANCES:**

Shri M. Komariah, General Secretary of the Singareni Collieries Workers' Union, Kothagudem, for the two claimants in the two Disputes.

Messrs. K. Srinivasamurthy, Secretary of Federation of A. P. Chambers of Commerce and Industry, and M. V. Ramakrishna Rao, Asst. Personnel Officer, S. C. Coy, Ltd., for the employers in the two Disputes.

**AWARD**

It is convenient and feasible to dispose of these two Industrial Disputes by a single award. These two disputes were referred to me by the Government of India in its Ministry of Labour, Employment & Rehabilitation (Department of Labour and Employment). That in I.D. No. 38/68 was referred by Order No. 7/1/68-LR II dated 22nd June, 1968. The issue as per Schedule appended thereto is this:—

Whether the Management of the Singareni Collieries Company Ltd., Post Office Kothagudem, Collieries, (Andhra Pradesh) was justified in terminating the services of Shri M. Dharma Raj, Welder, main Workshop, Kothagudem Collieries, with effect from 27th July, 1947? If not, to what relief is the workman entitled?

The dispute in I.D. No. 48/68 was referred by Order No. 7/3/68-LR II dated 28th August, 1968. The issue as per Schedule thereto is this:—

Whether the action of the Management of Singareni Collieries Company Limited, Kothagudem, in terminating the services of Shri Gulam Mohammad Soff, Welder, main Workshop, with effect from 14th December, 1967 was justified? If not, to what relief the workman is entitled?

The Singareni Collieries Workers Union through its General Secretary is party to both the references. The statement of claim in each case was filed by and under the signature of Mr. M. Komariah, General Secretary of the Workers Union. The other party to the two references is the Management, Singareni Collieries Company Ltd. The counter in each case was filed by and under the signature of Mr. M. Vasudevan, Deputy General Manager.

2. By order dated 23rd May, 1961 Dharmaraj who is the claimant in I.D. No. 38/68 was appointed as "apprentice welder with Category III emoluments in the main workshop for a period of two years". By subsequent order dated 25th July, 1963 Dharmaraj was appointed as "apprentice welder with Category IV emoluments in the main workshop for a further period of two years". In both the above orders it is stated that "his absorption in the Company's service would depend upon his suitability and availability of vacancies". There was a third order dated 28th July, 1965. According to it, "the services of Shri M. Dharmaraj, Category IV apprentice welder, main workshop, Kothagudem, is extended for two years with effect from 26th July, 1965". By letter dated 28th June, 1967 Dharmaraj was

informed that his "temporary appointment as apprentice welder" would be completing by 26th July and that thereafter his name would be removed from the rolls of the Company with effect from 27th July. It is stated in the statement of claims filed on behalf of Dharmaraj that he was a qualified welder, that he was appointed as welder and that he had worked as such upto 26th July, 1967 and that he was removed from service with effect from 27th July. This action on the part of the Management is characterised as discriminatory in that several trade apprentice welders and I.T.I. trained welders who had been taken as apprentices in the years 1963 and 1964, have been absorbed permanently in the employ of the Company. It is claimed that the Company should similarly absorb Dharmaraj. It is pointed out that although the orders appointing him had referred to him as apprentice welder, he had in fact worked as welder, that the said designation was mentioned in the pay sheets and that he had also been earning annual increments in Category IV wages. The prayer is for reinstatement with retrospective effect with back wages.

3. The Management filed counter to say that it was only as apprentice welder that Dharmaraj was taken as per the three orders mentioned above and that therefore was no question of his being an employee as such in the service of the Company. It is explained that what was terminated by order dated 28th June, 1967 was not his services as employee but his period of apprenticeship. It is denied that Dharmaraj was working as a welder. It is pointed out that there was no obligation on the part of the Management to absorb apprentices and to take them into the regular employment of the Company. Since according to the Management it was not a case of removing Dharmaraj from service, it is pointed out that any question did not arise of justification or otherwise of "termination of his services". It is further pointed out that the reference "seems to have been made on a mistaken impression" that the Management had terminated his services as an employee, and therefore the reference "ought to be rejected on this ground alone." Lastly, it is stated that if Dharmaraj was found suitable and up to the mark "he would have been recruited or taken as a permanent employee subject to vacancies". The suggestion seems to be that Dharmaraj was not found suitable at the end of six years.

4. By order dated 27 August, 1963 Gulam Mohammad Sofi who is the claimant in I.D. No. 48/68 was appointed as "apprentice welder on category IV emoluments". By order dated 14th December, 1967 he was informed that the Company had thereby "terminated his apprenticeship". It is stated therein that as per Clause 13(a) (ii) of the Certified Standing Orders of the Company he is given 15 days notice effective from 15th December and that on the expiry of the said period of 15 days his services would "automatically stand terminated", i.e., as from 30th December, 1967. It is stated in the statement of claims that Sofi was a qualified welder, that although the order of appointment stated that he was being appointed as apprentice welder, he was in fact working as a welder. It is pointed out that he was described as welder in the pay-sheets and that he had been receiving annual increments in Category IV. It is claimed that his appointment was neither temporary nor for any specified period and that therefore termination of his service after a continuous period of service for about five years was illegal. The action of the Management in this behalf is characterised as discriminatory in that those who had been appointed in the subsequent years, viz., in the years 1963 and 1964, had been absorbed as permanent welders in the employ of the Company. It is therefore prayed that the Company be directed to reinstate the claimant with back wages with effect from 1st January, 1968.

5. The Management filed counter to say that Gulam Mohammad Sofi was only taken as an apprentice in order to enable him to learn work as an apprentice "till his apprenticeship was terminated by an office order dated 14th December, 1967". It is denied that he was an employee of the Company, and it is stated that the reference "seems to have been made on a mistaken impression" that the Management had terminated his services as an employee. That being so, it is pointed out that "the question of going into justification or otherwise of his termination does not arise". It is therefore requested that "on this ground alone the reference ought to be rejected". The counter proceeds further to say that on merit, also there was no case for the Tribunal to interfere. It is pointed out that in that Sofi was "appointed as an apprentice welder, it implies that he was not qualified to be a welder at the time of his appointment and the appointment was intended to enable him to learn the trade". It is further pointed out that in many instances the period of apprenticeship exceeds five years and more and therefore there was "nothing unusual if Sri Sofi was retained for over four years". The allegation of

discriminatory treatment is denied. It is stated that it was only the I.T.I. candidates who were recruited subsequently that were absorbed in the permanent employ of the Company. As to the reason why the I.T.I. candidates were absorbed permanently into employment and as to why that was not done in the case of Sofi, it is explained as follows:—

Since Sri Sofi was still a learner at the time of appointing I.T.I. candidates, and has not attained any proficiency, naturally his case could not be considered for absorbing him in the vacancies that occurred at that time..... If Sri Sofi was found suitable, he would have been recruited or taken as permanent employee subject to vacancies

.....  
Lastly, it is stated that as a matter of fact a large number of welders was surplus and therefore the Management was not in a position to take Sofi into service of the Company.

6. When these two disputes came up for enquiry, a joint memo was filed by Mr. K. Srinivasamurthy for the Management and by Mr. M. Kumariah for the two claimants that one batch of evidence may be taken in both the disputes. I had said at the inception that it is convenient and feasible to dispose of both the disputes by a single award. The material aspects in both the disputes are similar. One batch of evidence has been recorded. There would be this single award in both the disputes. One witness was examined for the Management in both the cases. He is S. Kameswararao, Mechanical Engineer at the main workshop of the Company at Kothagudem. Exs. M1 to M9 were marked on the side of the Management. Three witnesses were examined on the side of the two claimants. W.W.1 is M. Dharmaraj who is the claimant in I.D. No. 38/68. W.W.2 is Gulam Mohammad Sofi who is the claimant in I.D. No. 48/68. W.W.3 is one G. Laxmiah who is working as a welder in the main workshop of the Company at Kothagudem. Exs. W1 to W20 were marked on the side of the claimants. I would refer to the relevant documents during discussion. I heard arguments of Mr. K. Srinivasamurthy for the Management and of Mr. M. Kumariah for the two claimants, Dharmaraj and Sofi.

7. Ex. M1 dated 23rd May, 1961 is the order by which Dharmaraj was first appointed as apprentice welder with Category III emoluments in the main workshop for a period of two years. Ex. M2 dated 26th July, 1963 is the succeeding order by which Dharmaraj was again appointed as apprentice welder for a period of two years, but this time it being with Category IV emoluments. Ex. M3 dated 26th July, 1965 is the third order by which the services of Dharmaraj were "extended for two years with effect from 25th July 1965" as apprentice welder in Category IV. Ex. M4 dated 28th June, 1967 is the order by which Dharmaraj was told that his "temporary appointment as apprentice welder" for two years would be complete by 26th July and that his name would be removed from the rolls of the Company with effect from the said date. It is seen from these documents that Dharmaraj was thus in the service of the Company as Welder for a little over six years. It will also be noted that throughout he had been referred to in those documents as apprentice welder. By Ex. M6 dated 29th August, 1963 Gulam Mohammad Sofi was appointed as apprentice welder on Category IV emoluments to work in the main workshop. It will be noted that any period is not specified in Ex. M6. By Ex. M7 dated 14th December, 1967 he was informed that his apprenticeship was thereby terminated, it being 15 days notice under Standing Order No. 13(a)(ii) of the Standing Orders of the Company. It will be seen that Sofi was in service for a little less than 4½ years.

8 In the main, what is required to be determined is what was the status or position of Dharmaraj and Sofi when by Ex. M4 dated 28th June, 1967 the former was told that his name would be removed from the rolls of the Company with effect from 27th July and when by Ex. M7 dated 14th December, 1967 the latter was given notice under Standing Order No. 13(a)(ii) and was told that thereby his apprenticeship was being terminated. It will be noticed that both of them were in Category IV as Welders at the time their services were terminated by Exs. M4 and M7 respectively. Even from the inception Sofi was taken on Category IV emoluments. During the last four years of his service Dharmaraj was in Category IV, while in the first two years he was in Category III. There is thus the fact that both Dharmaraj and Sofi were taken as Welders in specified categories. On the other hand there is the circumstance that in the various orders I have referred to in the paragraph above they are referred to as apprentice welders. The question is how to resolve the situation created by the above mentioned fact and the circumstance. If we are dealing with an apprentice as such, then there would be no question of his being an employee of the Company, and therefore



there would be no question of termination of employment. If there is no question of termination of employment, then any question of justification of the same cannot be canvassed. If on the other hand it could be said to be a case of Dharmaraj and Sofi being in the employment of the Company, then it would mean that by orders Exs. M4 and M7 their services were being terminated; and, in that event, the justification of the same could be canvassed. It will be noted that in the counters it filed the Management had taken the stand that, as they were mere apprentices learning a trade, it was not a case of removing them from service and that, inasmuch as the issue in each case was justification or otherwise of removing them from service, the reference itself would not be competent. The answer to this particular plea would depend upon the finding I would give on the question whether at the time the orders Exs. M4 and M7 were passed Dharmaraj and Sofi were only apprentices as such or they should be deemed to be in the employment of the Company. If the latter, the reference would be competent.

9. Dharmaraj (W.W.1) stated from the witness box that he was working as welder and that he was working as such in the erection work and also in the aerial rope way. He denied the suggestion in cross-examination that he was merely assisting the welders when work on the aerial rope way was going on. He also said that he was one of the ten welders in the erection work of the power house. Earlier in his evidence-in-chief the witness had said that the Company had put him to a trade test when first he was appointed in the year 1961. There is an Institution called Model Blacksmithy Centre at Khammam run by the Department of Industries and Commerce, Andhra Pradesh. Ex. W1 dated 1st May, 1961 is certificate from that Institution to Dharmaraj that he had undergone training for eleven months there in blacksmithy, turning and welding. It will be noted that this certificate was prior to Ex. M1 dated 23rd May. Ex. W2 is a regular official certificate, a sort of degree, to the same effect. It therefore means that at the time he was first appointed by Ex. M1 dated 23rd May, 1961, Dharmaraj had previous training as welder. Gulam Mohammad Sofi (W.W.2) stated from the witness box that he had even from the inception worked independently as welder in the tub section and that later when he was sent to Yellandu in 1965 he worked as welder in the tub section there. He denied the suggestion in cross-examination that he was not given independent welding work and that he was merely assisting the regular welders or was doing only rough welding jobs. Like Dharmaraj, Sofi also had been through the Model Blacksmithy at Khammam. Ex. W13 dated 20th March, 1963 is certificate to say that Sofi had received training in that Centre in blacksmithy, turning and welding for a period of eleven months. Ex. W14 is the regular official certificate in that behalf, like Ex. W2 which Dharmaraj had produced in respect of himself. It means that Sofi also had previous training as welder at the time he was first appointed by Ex. M6 dated 29th August, 1963. The witness said that he was given trade test when he was first appointed. W.W.3 is one Lakshmiiah who is a Welder in the main workshop of the Company at Kothagudem. He testified that both Dharmaraj and Sofi were working independently as Welders and that he had assisted when they were given trade test. He denied the suggestion in cross-examination that he did not so assist. As I said, Dharmaraj and Sofi had already training as welders. Therefore it was not unlikely that they were given trade test when they were appointed as apprentice welders.

10. More than what W.Ws. 1, 2 and 3 had testified, it is the testimony of M.W.1, Kameswara Rao, that is significant. He is Mechanical Engineer at the main workshop of the Company at Kothagudem. He stated that Dharmaraj and Sofi were apprentices till the last, that apprentices were not given regular welding work and that in order to enable them to learn the work they are given some rough kind of welding work which did not involve any precision. We had it from M.W.1 that apprentices, whether general apprentices or trade apprentices, are not given emoluments in any particular category but that they get stipend during the period of apprenticeship, it being Rs. 50 for the general apprentice and Rs. 60 for the trade apprentice. The following is what M.W.1 said in cross-examination:—

In the case of Dharmaraj what was paid to him was not stipend, and we allowed him wages in Category III and later in Category IV in lieu of stipend at the request of his father. Dharmaraj was getting bonus and other benefits which other workers got. Stipend apprentices are not paid any benefits. In the pay-sheets of 1964 Dharmaraj is shown as apprentice welder. In the years 1966 and 1967 until his removal, he is shown as welder in the pay-sheets. Except Dharmaraj and Sofi, I am not aware of any apprentice welders being paid category wages at the same time. There were none such.



Later in cross-examination M.W.1 said about Sofi that he was shown as welder in the pay sheets of the years 1966, 1967, that Ex. W11 is the bonus card for him and that Ex. W12 is his provident fund slip. The witness proceeded to state further as follows:—

Except Dharmaraj and Sofi who were getting category emoluments, the other apprentices were getting stipend. Both of them were getting increments.

The witness proceeded to state in cross-examination that except Dharmaraj and Sofi, all apprentices, whether trade apprentices or general apprentices, had signed indenture forms and that Dharmaraj and Sofi were being given all benefits that were being given to permanent workers. The witness also added that any trade apprentice or general apprentice was not given any benefit that was given to Dharmaraj and Sofi.

11. It is clear from the testimony of the Mechanical Engineer (M.W.1) that in every respect Dharmaraj and Sofi were on the rolls of the Company as regular welder-employees. It is true that in Exs. M1 to M4 and in Exs. M6 and M7 Dharmaraj and Sofi are repeatedly referred to as apprentice welder. I do not think that being so referred would detract from the basic fact that in every other respect they were on the rolls of the Company as regular employees as welders. They were not apprentices as such at the point of time the order Ex. M4 was passed in respect of Dharmaraj and the order Ex. M7 was passed in respect of Sofi. Those two orders were without doubt instances of termination of services. I will say that there was no justification in terminating their services by the orders Exs. M4 and M7. Any reason, much less any valid one, is not given in either document for the action taken. It is stated in the counters filed by the Management that Dharmaraj and Sofi were not found upto the mark and therefore they were not absorbed in regular employment and their services were terminated. Such is not the reason given either in Ex. M4 or in Ex. M7. It was also pleaded by the Management, the same having been stated from the witness box by the Mechanical Engineer (M.W.1), that there was surplus of welders and therefore there was no room for absorbing Dharmaraj and Sofi in permanent employment. If there was surplus of welders, the Management had the remedy to retrench the surplus personnel with due regard to the principle of last come first go. But the alleged surplus of personnel is not a ground for arbitrarily, such being the nature of the orders Exs. M4 and M7, terminating the services of Dharmaraj and Sofi. The case of the Management is not that the orders Exs. M4 and M7 were passed as a measure of retrenchment. The Management filed the Tradesmen Agreement Ex. M9 which deals with fixation of cadre strength in each department. That may be so in respect of cadre strength in any particular department, but, as admitted by M.W.1 in cross-examination, that document is not in respect of appointments.

12. So far as Sofi is concerned, it was argued by Mr. Srinivasamurthy that his was a case of discharge simpliciter, and that therefore the same cannot be questioned. Standing Order 13(a) of the Standing Orders of the Company deals with "termination of employment". It is provided that employment could be terminated by the Management or by the employee by one month's notice in writing for the monthly staff and two weeks notice for other employees. If, as contended by the Management, Sofi was only an apprentice, the question of any such notice did not arise. It was only on the assumption that he was an apprentice welder that such a notice was given. But on that assumption such a notice was not necessary. But just because there is a notice under sub-clause (a) (ii) of Standing Order No. 13, the Management cannot now turn round during arguments and say that the notice in question should be treated as discharge simpliciter. Mainly, the question is whether Dharmaraj and Sofi were only apprentices as such at the points of time the orders Exs. M4 and M7 are passed or whether they were in the regular employment of the Company. My finding is that they were in regular employment of the Company. There was no justification for terminating their services.

13. My finding under the issue in I.D. No. 38/68 is that the Management was not justified in terminating the services of Dharmaraj, Welder, with effect from 27th July, 1967. That being so, the Management is directed to take him back into employment with retrospective effect with back wages and attendant benefits. My finding under the issue in I.D. No. 48/68 is that the action of the Management in terminating the services of Gulam Mohammad Sofi, Welder, by order dated 14th December, 1967 was not justified. That being so, the Management is directed to

take him back into employment with retrospective effect with back wages and attendant benefits.

Award passed accordingly.

Given under my hand and the seal of the Tribunal, this the 16th day of August, 1969.

(Sd.) M. NAJMUDDIN,  
Industrial Tribunal.

APPENDIX OF EVIDENCE  
*Witnesses examined for Employers*

*Workmen*

- W.W.1 : M. Dharmaraj.  
W.W.2 : Gulam Mohammad Sofi.  
W.W.3 : G. Laxmiah.

M.W. 1 : S. Kameswara Rao.

*Documents exhibited for Workmen*

- Ex. W 1 : Certificate dated 1-5-61 issued by the Superintendent of Model Blacksmithy Centre Khammam to Dharmaraj.  
Ex. W 2 : Certificate dated 20-6-63 issued by the Department of Industries and Commerce A.P., in respect of Dharmaraj in Blacksmithy, etc  
Ex. W 3 : Letter dated 1-4-65 addressed by the Union to the Company to confirm Mr. Dharmaraj.  
Ex. W 4 : Reminder dated 20-4-65 addressed by the Union to the Management in respect of Ex. W 3  
Ex. W 5 : Reminder dated 16-5-65 addressed by the Union to the Company to make confirmation of Mr. Dharmaraj.  
Ex. W 6 : Reminder dated 1-6-65 addressed by the Union to the Company for the confirmation of Dharmaraj.  
Ex. W 7 : Do. dated 20-6-65 Do.  
Ex. W 8 : Letter dated 8-7-67 addressed by the Union to the Company for the confirmation of Dharmaraj in Category 7.  
Ex. W 9 : Letter dt. 21-8-67 addressed by the Union to the Asstt. Labour Commissioner (Central) Hyderabad for conciliation proceedings as Mr. Dharmaraj was removed from service.  
Ex. W 10 : Conciliation proceedings dt. 30-12-67 sent to the Govt. of India by the Asst. Labour Commissioner (C) Hyderabad for adjudication.  
Ex. W 11 : Identity book given by the Company to Mr. Gulam Mohammad Sofi.  
Ex. W 12 : Annual statement of provident fund account of Sofi.  
Ex. W 13. Certificate issued by the Superintendent of Model Blacksmithy Centre, Khammam, to Mr. Gulam Mohd. Sofi that he has undergone training.  
Ex. W 14 : Certificate issued by the Industries and Commerce, A.P., to Gulam Mohammad Sofi in Blacksmithy.  
Ex. W 15 : Letter dt. 5-4-65 addressed by the Company to Sofi and three others referring as welders.  
Ex. W 16 : Letter dt. 3-12-65 addressed by the Management to Mr. Sofi informing that his wages, would be given proportionately on 2-12-65.  
Ex. W 17 : Gate pass issued by the Management to Sofi describing him as Welder.  
Ex. W 18 : Bonus card of Sofi for quarter ending 31-12-64.  
Ex. W 18(a) : Bonus card of Sofi for quarter ending 30-6-64.  
Ex. W 19 : Certificate issued by the Resident Engineer, Patel Engg. Co. Ltd., to Sofi  
Ex. W 19(a) : Certificate issued by the Resident Engineer, Patel Engg. Co. Ltd., to Sofi.  
Ex. W 20 : Identity book given by the Company to Mr. Dharmaraj.

*Documents exhibited for Employers*

- Ex. M 1 : Appointment order dt. 24-5-61 of apprentice welder in respect of Dharmaraj with category III emoluments.  
Ex. M 2 : Appointment order dt. 26-7-63 of Dharmaraj.  
Ex. M 3 : Appointment order dt. 26-7-65 that Mr. Dharmaraj, Category IV apprentice welder's services were extended for another two years.

Ex. M 4 : Termination order dated 28-6-67 in respect of Dharmaraj.

Ex. M 5 : Letter dt. 23-7-65 by the Company to the Union stating that Mr. Dharmaraj's Services stand terminated with effect from 26th July, 1965.

Ex. M 6 : Appointment order as Apprentice Welder with Category IV emoluments dt. 29-8-68 in respect of G. M. Sofi.

Ex. M 7 : Termination order of Sofi dt. 14-12-67.

Ex. M 8 : Company's Standing Orders.

Ex. M 9 : Memo. of Settlement arrived at during conciliation proceedings held on 3-2-61 at Kothagudem by the Conciliation Officer, Secundrabad.

(Sd.) M. NAJMUDDIN,  
Industrial Tribunal.  
[No. 7/1/68-LRII.]

New Delhi, 2nd September 1969.

**S.O. 3703.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of Shri R. J. T. D'Mello, Arbitrator, in the industrial dispute between the raising Contractors of Rajhara Group of Mines of Bhilai Steel Project, Bhilai, and their workmen represented by Samyukta Khadan Mazdoor Sangh, which was received by the Central Government on the 22nd August, 1969.

In the matter of arbitration under section 10A of the Industrial Disputes Act in the industrial dispute between the raising contractors in the Rajhara Group of Mines of the Bhilai Steel Project, Bhilai and their workmen regarding fixation of norms of production of the piece rated workers.

#### PRESENT

Shri R. J. T. D'Mello, Deputy Chief Labour Commissioner (Central)—*Arbitrator*  
*Representing employers:*

1. S/Shri Manoharlal Jain,  
For M/s. Manoharlal Jain & Co., Aridongri Mine  
M/s. K. L. Golcha, Dalli Mines,  
M/s. Premraj Gundhar, Kokan Mines,  
M/s. Hamirmal Jain, Dalli Mines,  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)
2. S/Shri Anoopchand Jain,  
For M/s. A. C. & Co., Dalli Mines,  
M/s. N. C. Jain & Co., Dalli Mines,  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)
3. S/Shri Murlidhar Lohia,  
For M/s. Adarsh Minerals, Dalli Mines,  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)
4. S/Shri Pukhraj Jain,  
For M/s. Hindustan Miners, Dalli Mines,  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)
5. S/Shri Lakshmilal,  
Transport Contractor, Dalli Mines,  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)
6. S/Shri Tikamchand Jain,  
For M/s. K. C. Jain, Kokan Mines,  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)
7. S/Shri N. D. Kamble, Kokan Mines,  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)
8. S/Shri S. C. Tripathi, Manager,  
Rashtriya Khadan Mazdoor Sahakari Samiti Ltd., Dalli Mines,  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)
9. S/Shri S. K. Dutta, Manager,  
Khadan Mazdoor Sahakari Samiti Ltd.,  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)

*Representing workmen:*

1. S/Shri S. K. Sanyal, President,  
Samyukta Khadan Mazdoor Sangh (AITUC),  
P.O. Rajnandaon (M.P.)

2. S/Shri P. K. Thakur, Vice-President,  
Samyukta Khadan Mazdoor Sangh (AITUC),
3. S/Shri Prakash Roy, General Secretary,  
Samyukta Khadan Mazdoor Sangh (AITUC),
4. S/Shri Jibon Mukherji, Secretary,  
Samyukta Khadan Mazdoor Sangh (AITUC),
5. S/Shri P. B. Chakravorty, Secretary,  
Steel Workers' Union (AITUC), Rajhara Branch,  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)
6. S/Shri P. K. Sengupta, General Secretary,  
Khadan Mazdoor Congress (Ind),  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)
7. S/Shri N. S. Ghadge, General Secretary,  
Chhattisgarh Khadan Mazdoor Union (HMS)  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)
8. S/Shri S. B. Singh, General Secretary,  
Mine Workers' Union (Ind.),  
P.O. Dalli-Rajhara, Distt. Durg (M.P.)

Shri M. B. Bhadhuri, Assistant Superintendent, Ores, Mines and Quarries and Shri M. R. Raju, Senior Labour Officer (Conciliation) B.S.P., Bhillai were likewise present.

STATE:  
Madhya Pradesh

INDUSTRY:  
Iron Ore

#### AWARD

By an agreement dated 5th December, 1967 published under Department of Labour and Employment's Order No. 36/44/67-LR.I dated 6th January 1968 the following dispute between the various raising contractors of the Rajhara Group of Mines of Bhillai Steel Project and the representatives of the various unions as mentioned above was referred for my arbitration under Section 10A of the Industrial Disputes Act:—

"Is there a necessity to fix up norms of production for:

- (a) Raising a blasted ore and float ore;
- (b) Transport loading and unloading of trucks;
- (c) Despatch by loading of railway wagons; and
- (d) Mechanical and manual drilling and blasting.

for the piece rated workers employed by the contractors in the Iron Ore Mines of Bhillai Steel Plant to ensure payment of wages as recommended by the Wage Board for Iron Ore Mining Industry? If so, what should be the norms and the relief the workers are entitled to?"

It was also provided in the Arbitration Agreement that I should make my Award within a period of three months otherwise it will be open to parties to choose another arbitrator.

2. On receipt of the reference I addressed the parties on 31st January, 1968, calling upon them to submit their statements of the case (endorsing copies to each other) as well as their comments on each other's statements. Till 20th February, 1968 only one contractor viz. Shri Manoharlal Jain, Dalli-Rajhara, requested in this letter dated 5th February 1968, for the extension of time by 15 days to submit his statement. The General Secretary, Khadan Mazdoor Congress, Dalli-Rajhara in his letter dated 13th February 1968, submitted that the General Manager of Bhillai Steel Plant of Hindustan Steel Limited, P.O. Bhillai, be also impleaded as one of the parties to the dispute. As statements from most of the parties were not received, the date of giving the award was extended by Mutual consent of the parties by three months from 5th March 1968.

3. Thereafter the date of giving the Award was further extended by mutual consent of the parties from time to time and the last date for making the award is now 5th September 1969. During this intervening period, statements were received from most of the employers and the unions and the hearings were held at Bhillai. The unions viz. Samyukta Khadan Mazdoor Sangh, (AITUC), Khadan Mazdoor Congress (Independent), Steel Workers' Union (INTUC), Chhattisgarh

Khadan Mazdoor Union (HMS) and Mine Workers' Union (Independent) have submitted that in consideration of the changed circumstances there is no necessity at present to fix any norms of production and an award may be given accordingly. Most of the employers likewise have submitted that there is no necessity to fix any norms of production under this reference.

In the aforesaid circumstances, I record a 'no dispute' award in this reference.

NEW DELHI;  
Dated the 18th August, 1969.

Sd/- R. J. T. D'MELLO,  
Deputy Chief Labour Commissioner  
(Central) and Arbitrator.

[No. 36/44/67-LRIV.]

*New Delhi, the 3rd September 1969*

**S.O. 3704.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the South Govindpur Colliery of Shri H. I. Pathak, Post Office Katrasgarh, District Dhanbad, and their workmen, which was received by the Central Government on the 25th August, 1969.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2)  
AT DHANBAD**

**PRESENT**

Shri Nandagiri Venkata Rao, Presiding Officer

REFERENCE NO. 247 CF 1967

In the matter of an industrial dispute under Section 10(1) (d) of the Industrial disputes Act, 1947.

**PARTIES**

Employers in relation to the South Govindpur Colliery of Shri H. I. Pathak,  
Post Office Katrasgarh, District Dhanbad.

**AND**

Their workmen

**APPEARANCES:**

*On behalf of the employers.*—Shri S. S. Mukherjee, Executive Committee Member, Indian Colliery Owners' Association.

*On behalf of the workmen.*—Shri Shankar Bose, Secretary, Colliery Mazdoor Sangh.

STATE: Bihar

INDUSTRY: Coal.

*Dhanbad, 20th August, 1969*

Camp: CALCUTTA.

**AWARD**

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the South Govindpur Colliery of Shri H. I. Pathak, Post Office Katrasgarh, District Dhanbad and their workmen, by its order No. 2/79/67-LRIV dated 22nd July 1967 referred to this Tribunal under Section 10 (1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

**SCHEDULE**

"Whether the management of South Govindpur Colliery, (Post Office Katrasgarh, District Dhanbad) of Shri H. I. Pathak, was justified in refusing employment to Sarvashri Jagdish Singh, Bishundeo Singh, Mohan Rewani, Kinu Rewani, Paltan Mahato, Prayag Mahato, Surju Singh and Gokul Rewani, Trammers and Shri Prayag Rajwar, Pick Miner with effect from 13th September 1966, and in subsequently dismissing from services Sarvashri Mohan Rewani, Kinu Rewani, Paltan Mahato, Prayag Mahato, Surju Singh and Gokul Rewani with effect from the 31st October, 1966? If not to what relief are the workmen concerned entitled?"



2. Workmen as well as the employer submitted their statement of demands.

3. Admittedly, Shri H. I. Pathak is the owner of South Govindpur Colliery. The case of the workmen is that the first 8 of the affected workmen were trammers and the 9th affected workman a pick miner, working as permanent workman in the 15th middle seam of South Govindpur colliery (hereinafter referred to as the colliery). The management closed the workings of the seam without any reason and without notice with effect from 13th September 1966 and the workings in the seam were restarted on 20th September 1966. The management refused to mark attendance of or pay lay-off compensation to the affected workmen although they were reporting for the work every day. After the seam restarted working the affected workmen were not allowed to resume duties inspite of their repeated prayers. All the affected workmen are active members of the Colliery Mazdoor Sangh and under the leadership of the union had been agitating for correct payment of their wages much to the displeasure of the management. The management had already launched a campaign against the union and in order to crush the union and to break the morale of its members, dismissed, discharged and otherwise threw out of employment more than 150 workmen, out of whom the disputes with regard to 130 workmen have been pending before various tribunals for adjudication. In the end the statement of the workmen stated that the action of the management in denying work and wages to all the 9 affected workmen with effect from 13th September 1966 and in terminating the services of the six affected workmen at Sl. Nos. 3 to 8 was unjustified, *malafide*, in contravention of the provisions of the Standing Orders, in violation of the principles of natural justice, in breach of Section 33 of the Industrial Disputes Act and amounted to victimisation and/or unfair labour practice. The statement of the employer deals separately with the 9 affected workmen. According to the statement the affected workman at Sl. No. 1, Shri Jagdish Singh was not working at all at the colliery at the relevant time and he had worked only for 26 days in 1965, that the affected workman at Sl. No. 2, Shri Bishundeo Singh was only a temporary workman and his services were terminated by the letter dated 12th September 1966, that the affected workman at Sl. No. 9, Shri Prayag Rajwar did not resume his duties at any time after the lay-off was lifted on 20th September 1966 and preferred to remain absent and that the affected workmen at Sl. Nos. 3 to 8, S/Shri Mohan Rewani, Kinu Rewani, Paltan Mahato, Prayag Mahato, Surju Singh and Gokul Rewani were working as trammers, they recorded their attendance in the night shift of 13th September 1966, worked for half an hour and then in a concerted move refused to carry on their normal duties, recorded their attendance on 14th September 1966 but refused to perform their duties, notices dated 15th September 1966 were issued to them asking them to carry on their normal duties and when they refused to carry on their normal duties inspite of repeated requests, the management by notice dated 16th September 1966 laid off the workmen of the seam on account of the strike, giving information whereof to the Regional Labour Commissioner (C) Dhanbad in form O dated 20th September 1966. It is further stated that on account of the above individual charge-sheets dated 17th September 1966 were issued to the six affected workmen and when they neither received the charge-sheets nor submitted explanation a departmental enquiry was held against them with due notice and as a result of the finding of guilt by the enquiry officer their services were terminated by the letter dated 31st October 1966. According to the employer the departmental enquiries were proper, just and in accordance with the principles of natural justice. It was denied that the affected workmen were victimised to any extent. The workmen were represented by Shri Shankar Bose, Secretary, Colliery Mazdoor Sangh and the employer by Shri S. S. Mukherjee, Executive Committee Member, Indian Colliery Owners' Association. On admission by the employer Exts. W. 1 to W. 4 for the workmen and on admission by the workmen Exts. M. 1 to M. 7 for the employer were marked. On behalf of the workmen 5 witnesses were examined and Ext. M. 59 was marked. On behalf of the employer one witness was examined and Exts. M. 8 to M. 53 were marked.

4. I propose to deal with cases of the affected workmen at Sl. Nos. 1, 2 and 9 at first. The affected workman at Sl. No. 1 is Shri Jagdish Singh. The case of the workmen is that this affected workman was a permanent trammer for last 7 years in the colliery and that he was stopped from work with effect from 13th September 1966 for no reason. The employer has pointed out that the workman was not at all working at the colliery during the material period and that he had worked only for about 26 days in 1965. As pointed out by the workmen the dispute was raised before the Assistant Labour Commissioner (C) Dhanbad by the union through their 2 letters, Ext. W. 2 and W. 4. In reply to Ext. W. 2 the employer had stated in his letter, Ext. W. 3 that there was no workman in his employ by name Shri Jagdish Singh. Thus, both the parties had sufficient



notice to establish their respective cases with cogent evidence. Among the documents filed on behalf of the workmen there is none to support their case in this respect. The affected workman at Sl. No. 1 Shri Jagdish Singh is examined as WW 1. It is his evidence that he was appointed as a trammer in the colliery on 17th March 1959 and worked as such till 13th September 1966. He has produced neither his appointment letter nor any other record to show that he worked in the colliery from 17th March 1959 till 13th September 1966. He says that his attendance was noted in a pocket book and not, in a register and that his wages were paid on loose sheets instead of on the payment register. The workmen did not even summon the so-called pocket book and loose sheets. According to him he was working since 1959 and yet he did not complain in writing to anyone in respect of his attendance being marked in a pocket book and wages paid on loose sheets. On his own showing during this long period of 7 years he had reported orally only once to the Manager. MW. 1 is the Manager of the colliery from 1960. He has deposed that the affected workman at Sl. No. 1, Shri Jagdish Singh worked in the colliery only for 26 days in 1965. There is not even cross-examination on this point. The evidence of MW. 1 is corroborated by the attendance registers for 1965 and 1966, Exts. M 1 and M 2. Exts. M 50 and M 51 are their extracts. During the year 1965, the attendance register shows that the affected workman at Sl. No. 1, Shri Jagdish Singh had put in only 26 days of attendance and during the year 1966 he had not attended to work on a single day. These registers are marked on admission by the workmen. The attendance registers have some importance attached to them, because they are statutory registers required to be maintained under Section 43(3) of the Mines Act, 1952 and Rule 78 of the Mines Rules, 1955. When the affected workman at Sl. No., 1 Shri Jagdish Singh appeared as WW. 1 a suggestion was put to him that he worked in the colliery only upto 19th June 1965 and that since then he was working at Dharmaband colliery. He emphatically asserted that he did not work in Dharmaband colliery at any time. But his own colleague has betrayed him. WW 2 says that the affected workman at Sl. No. 1, Shri Jagdish Singh was working at Dharmaband colliery since 3 or 4 years as a chaprasi and that WW 2 also was living with him at Dharmaband colliery. Shri Shankar Bose, the learned representative of the workmen tried to elicit something favourable from the witness and re-examined him. In the re-examination nothing favourable emerged except that since prior to his dismissal from the colliery the affected workman was living at Dharmaband colliery. On this material it cannot be held that the affected workman at Sl. No. 1, Shri Jagdish Singh was a trammer working at the colliery till 13th September 1966, that he was stopped from working on and from that date and that it was not justified.

5. In respect of the affected workman at Sl. No. 2, Shri Bishundeo Singh also the case of the workmen is that he was a permanent trammer on 13-9-1966 and that he was stopped from work without assigning any reason. The employer has pleaded that the affected workman was only a temporary workman and as such, his services were terminated by the letter dated 12th September, 1966 with immediate effect. The copy of the letter is Ext. M3. The letter says that the affected workman was a temporary trammer, that the management did not need his services any longer and that they would stand terminated with immediate effect. The letter further stated the affected workman would be paid one week's wages in lieu of notice and that he should collect the same along with other dues, if any on 13th September, 1966. The letter is admitted by the workmen. The envelope containing the letter sent by registered post is returned and it is Ext. M4. Exts. M1 and M2 are attendance registers respectively for 1965 and 1966 and their extracts are respectively Exts. M50 and M51. These attendance registers show that the affected workman, Shri Bishundeo Singh had put in only 134 days attendance in 1965 and 130 days in 1966. Ext. M2 also shows that in the week 17th September, 1966 he attended only on 2 days and he did not attend to work on any day after the week ending during in the year. The attendance registers, Exts. M1 and M2 also are marked on admission by the workmen. The Manager, MW.1 has deposed that the affected workman was a temporary trammer, that his services were terminated with effect from 12th September, 1966 and that he was no more in service on 13th September, 1966. He further deposed that the affected workman had received his full and final payment on 22nd March, 1969 under the voucher, Ext. M8. The witness has also identified his own signature and the thumb impression of the affected workman on the voucher, Ext. M8. On this point the witness is not cross-examined. The affected workman at Sl. No. 2, Shri Bishundeo Singh is examined as WW.2. Having deposed that on 13th September, 1966 the lamp issue clerk did not allow him to resume duty, he stated that he worked only upto 1965. May be that he made a mistake in giving the year as 1965, but he says that he was dismissed

from the time when the other affected workmen, S/Shri Jagdish Singh, Mohan Rewani and Kinu Rewani were dismissed. Shri Mohan Rewani is the affected workman at Sl. No. 3 and Kinu Rewani is the affected workman at Sl. No. 4. Admittedly, these 2 affected workmen were dismissed with effect from 31st October, 1966 as a result of domestic enquiries. It is not the case of the workmen that this affected workman at Sl. No. 2, Shri Bishundeo Singh was also dismissed with effect from 31st October, 1966 or that any domestic enquiry was held against him. Before the Conciliation Officer also the employer had pleaded that the management had dismissed the affected workman with effect from 12th September, 1966 and that he was not in the employee of the employer on 13th September, 1966. The documents filed on behalf of the workmen do not support the case of the workmen that the affected workman at Sl. No. 2, Shri Bishundeo Singh was a permanent workman or that he was in service on 13th September, 1966. Hence, the case set up by the workmen in this regard cannot be accepted. It is rejected.

6. As regards the affected workman at Sl. No. 9, Shri Prayag Rajwar the workmen have pleaded that he was a permanent workman and that along with others he was stopped from work from 13th September, 1966 for no valid reason. The employer did not deny that the affected workman was a permanent workman or that he was in service of the employer on 13th September, 1966. It is pointed out by the employer that when the affected workmen at Sl. Nos. 3 to 8, in a concerted action refused to carry on their duties, the management issued notices, charge-sheets, held domestic enquiries and ultimately dismissed them by the letters, Exts. M40 to M45. If the affected workman at Sl. No. 9, Shri Prayag Rajwar also was one of those who absented from duty from 13th September, 1966 there was no reason why he should also have not been dealt along with the affected workmen at Sl. Nos. 3 to 8. No notice or charge-sheet was issued to him. Nor was any domestic enquiry held against him. He was not dismissed from service. When it is not denied that he was a permanent workman and admittedly he was not dismissed, he must be deemed to continue in service. The employer says that this affected workman did not report to duty on and from 20th September, 1966 when the lay-off was lifted. According to the employer trammers in each shift of the seam stopped working since the night shift of 13th September, 1966 and as such he had laid off 62 out of 73 workmen of the seam. Ext. M46 is information conveyed to the Regional Labour Commissioner under Rule 75A of the Industrial Disputes (Central) Rules, 1957 and Ext. M9 is the list of the 62 workmen so laid off. The affected workman at Sl. No. 9, Shri Prayag Rajwar is not one of the 62 workmen said to have been laid off. It follows, therefore, that the affected workman was neither laid off nor was he dealt with for absents from 13th September, 1966, although he was a permanent workman. The contention of the employer is that the affected workman did not report to duty on and after 20th September, 1966 when the lay off was lifted. From the letter to the Regional Labour Commissioner, Ext. M47 it appears that the lay off had ended on 20th September, 1966. But how was the affected workman to know that the lay off was lifted and that he was to report to duty on and from 20th September, 1966. No notice was issued to him in this respect. Against the pleading of the employer MW.1 has come forth with a new case, stating that since prior to 13th September, 1966 he was absents. This evidence against the pleading cannot be accepted. Even then MW.1 did not say from what date he was absents or what action did the management take against him for absents without leave or permission, which is a misconduct in terms of clause 18(d) of the Standing Orders, Ext. M58. Relying on the attendance register, Ext. M2 and its extract, Ext. M51 it is argued that the affected workman did not attend to his work at any time after the week ending 25th June, 1966. But having checked the attendance registers I found the extract, Ext. M51 not correct to this extent. I have found from the registers that the affected workman had attended to his duty during the week from 21st August, 1966 to 27th August, 1966 in the shift from 4 P.M. to 12 midnight and during the week from 28th August 1966 to 3rd September, 1966 in the shift from 12 midnight to 8 A.M. Thus, the argument is devoid of basis. If really the affected workman absented from duty either from the alleged or any other date, he being a permanent workman, it could not be expected that the management would not take any action against the misconduct committed by him, the misconduct for which he could even be dismissed and set up the plea when a dispute is raised for not permitting him to resume duty. In the result, I do not find any justification for the employer in refusing employment or due wages to the affected workman with effect from 13th September, 1966.

7. In respect of the affected workmen at Sl. Nos. 3 to 8 the case of the employer is that charge-sheets were issued to them for committing misconduct and as the result of domestic enquiries held against them in accordance with the principles of natural justice they were dismissed from services with effect from 31st October, 1966. It is pointed out that out of the six affected workmen, affected workmen at Sl. Nos. 3, 7 and 8 had their duties in the day shift and affected workmen at Sl. Nos. 4, 5 and 6 in the night shift on 13th September, 1966 and 14th September 1966. After recording their attendance in the shifts they did not perform their duties. Thereafter they did not report to duty at all. On 15th September 1966 the management issued notices to the affected workmen and sent them by registered post, asking them to join duty immediately, but the letters were returned undelivered. Then charge-sheets were issued to them on 17th September, 1966. These letters also were returned undelivered. Shri K. B. Upadhyaya, Cashier-cum-Head clerk held separate domestic enquiries against the six affected workmen. Shri Upadhyaya issued notices to the affected workmen on 28th September, 1966 fixing the date of enquiry on 3rd October, 1966. As the affected workmen did not turn up on 3rd October, 1966 for the enquiry he issued fresh notices on 13th October, 1966 fixing the dates of enquiry on 25th October, 1966 and 26th October, 1966. These notices were served. But the affected workmen did not turn up for the enquiry. Consequently, Shri Upadhyaya held the enquiries separately ex parte and submitted his reports finding the affected workmen guilty of the charge. Then all the six affected workmen were dismissed from service. The workmen in their statement have denied that the affected workmen had left their work on 13th September, 1966 or 14th September, 1966. They also denied having received the notices dated 15th September, 1966 or charge-sheets dated 17th September, 1966. They have admitted receipt of notices of enquiry dated 28th September, 1966, but stated that they were received on 4th October, 1966, while hearing of the enquiry was fixed on 3rd October, 1966. Nothing is said in the statement regarding notices of enquiry dated 13th October, 1966. MW. 1 has proved all the above notices and charge-sheets. The notice dated 15th September, 1966 is Ext. M5 and the returned notices in their envelopes are Exts. M6(1) to M6(6), the charge-sheets are Exts. M10 to M15 and their series, the notices of hearing issued on 28th September, 1966 are Exts. M16 to M21 and notices of hearing issued on 13th October, 1966 are Exts. M22 to M27 and their acknowledgements Exts. M28 to M33. In their letter, Ext. W14 to the Assistant Labour Commissioner the Secretary of the union had admitted receipt of notices, Exts. M22 to M27 but stated that they were not received in time. WW. 5 the affected workman at Sl. No. 7 has in evidence that on 25th October, 1966 they had received the notice and identified his signature and the signature of Shri Anirudh Dubey, the Secretary of the union on the acknowledgement, Ext. M32. All the acknowledgements, Exts. M28 to Ext. M32 bear the signature of Shri Anirudh Dubey also along with the date 24th October, 1966. It follows that the notices, Exts. M22 to M27 fixing the date of enquiry on 25th October, 1966 and 26th October, 1966 were served on the affected workmen on 24th October, 1966 and not on 25th October, 1966 as spoken to by WW. 5. The case of the workmen is that the notices were not served in time and thus, the affected workmen had no opportunity to attend the enquiries. Whatever the reason be, the enquiry was not held on 3rd October, 1966. The enquiries against the affected workmen at Sl. Nos. 4, 6 and 7, Sarvashri Kinu Rewani, Prayag Mahato and Surju Singh were held on 25th October, 1966 and the enquiries against the affected workmen at Sl. Nos. 3, 5 and 8, Sarvashri Mohan Rewani, Paltan Mahato and Gokul Rewani on 26th October, 1966. All the acknowledgements, Exts. M28 to M33 in respect of the notices issued for the hearing on 25th October, 1966 and 26th October, 1966, Exts. M22 to M27 show that they were received by the affected workmen on 24th October, 1966. The addresses shown on the notices and the acknowledgements indicate that the notices were sent to the colliery addresses, whereas the enquiries were also held. Thus, there can be no truth in the case of the workmen that the affected workmen had no time to attend the enquiries on 25th October 1966 and 26th October 1966. Their non-receiving the charge-sheets could not be any excuse, because, if it was so they could appear before the enquiry officer and represent the same and seek adjournment for receiving the charge-sheets and submit explanations. Along with their statement the workmen have filed a copy of a letter said to have been addressed by the affected workman at Sl. No. 8 and others to the Partner of the colliery complaining that the charge-sheets were not received by them. The letter is not admitted by the employer. No attempt was made to call for the original letter from the employer or to produce the office copy and prove it according to law. 5 of the affected workmen are examined as WW 1 to WW.5. But none of them has spoken a word about this alleged letter. The statement of the workmen, that the affected workmen had

not received the charge-sheets at all also does not appear to be true. WW-5 has admitted that he had given a statement before the Regional Labour Commissioner in the case relating to the present dispute. A certified copy of the statement is produced by the employer and it is Ext. M59. In that statement the affected workman, WW-5 had stated categorically that he was issued a charge-sheet after the closure of the mine on 13th September 1966 alleging that they were remaining absent. WW-3 also says that he had received the charge-sheet later on. Whether they received in time or not but it emerges that the charge-sheets were received by them. But in the written statement, the workmen have denied receipt of the charge-sheets altogether. Whatever that may be, even if it is assumed that the affected workmen had not received the charge-sheets, that could not be an excuse not to attend the enquiry and if the enquiry officer proceeded with the enquiries ex-parte he did not commit any irregularity. The enquiries were conducted by Shri K. B. Upadhyaya, Cashier-cum-Head clerk separately against each of the six affected workmen. Enquiry proceedings and the enquiry reports are Exts. M34 to M39 and their series respectively. These enquiry proceedings are proved by MW-1 who was one of the witnesses examined in each case. The charge against each of the affected workmen was under clause 18(C) of the Standing Orders, Ext. M58 alleging wilful disobedience of lawful order of the Manager. In each of the cases the Manager had deposed that in spite of his directions the affected workmen did not resume duty after 14th September 1966. There is the evidence of 2 more witnesses also in each case. I have referred to the evidence of the Manager in order to show that the finding of the enquiry officer holding each of the affected workman guilty of the charge was not baseless. No other irregularity or violation of any principle of natural justice in the enquiries is neither pleaded nor proved by the workmen. On this material I do not find any reason to interfere with the findings of the enquiry officer. Accepting the findings the letters, Exts. M40 to M45 dated 31st October 1966 were issued to the six affected workmen dismissing them with immediate effect. MW-1 has proved that these letters were issued under the signatures of Shri G. H. Pathak, the Agent and Partner of the colliery. Thus, I do not find any irregularity in the Agent accepting the findings of the enquiry officer and issuing the dismissal letters. Consequently, I hold that the dismissal of the 6 affected workmen was proper and justified.

8. Regarding the plea of the workmen that the affected workmen were victimised for their trade union activities, there is absolutely no evidence worth mentioning.

9. As a result of my above dismissal I hold that the management of South Govindpur Colliery (Post office Katrasgarh, District Dhanbad) of Shri H. I. Pathak, was justified in refusing employment to Sarvashri Jagdish Singh, Bishundeo Singh, Mohan Rewani, Kinu Rewani, Paltan Mahato, Prayag Mahato, Surju Singh and Gokul Rewani, trammers with effect from 13th September 1966 and in subsequently dismissing from services Sarvashri Mohan Rewani, Kinu Rewani, Paltan Mahato, Prayag Mahato, Surju Singh and Gokul Rewani with effect from 31st October 1966 and as such the above referred to affected workmen are not entitled to any relief. But the management was not justified in refusing employment to the affected workman at Sl. No. 9, Shri Prayag Rajwar, Pick miner with effect from 13th September 1966 and as such, he is entitled to his wages and other benefits from 13th September 1966 to the date when the employer issues a notice and permits him to join duty, as though his service was never interrupted. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

Sd/- N. VENKATA RAO,

Presiding Officer,

Central Govt. Industrial Tribunal (No. 2) Dhanbad.

[No. 2/79/67-LR.II.]

## ORDERS

*New Delhi, the 30th August 1969*

**S.O. 3705.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of North and West Ghanudih Colliery, Post Office Jharla, District Dhanbad and their workmen in respect of the matters specified in the Schedule hereto annexed.



And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal (No. 3), Dhanbad constituted under section 7A of the said Act.

#### SCHEDULE

"Whether the management of North and West Ghanudih Colliery Post Office Jharia, District Dhanbad, was justified in stoppage of work of the following workmen with effect from the 29th July, 1968. If not, to what relief are the workmen entitled?"

S. No.	Name	Designation
1.	Shyamapada Manjhi.	Bailing Mazdoor.
2.	Kali Mahato	Dusting Mazdoor.
3.	Nanda Gorai	Bailing Mazdoor.
4.	Shyamapada Kumbhar	Pump Khalasi.
5.	Dwijopada Kumbhar	Bailing Mazdoor."

[No. 2/88/69-LRII.]

**S.O. 3706.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Chora Colliery Number 7 and 9 Pits, Post Office Bahula, District Burdwan, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal. Calcutta constituted under section 7A of the said Act.

#### SCHEDULE

"Whether the management of Chora Colliery numbers 7 and 9 Pits, Post Office Bahula, District Burdwan was justified in dismissing from service the following workmen with effect from the 6th February, 1969:—

- (1) Shri Shlodutta Nonla H. E. Khalasi.
- (2) Shri Ram Rup Paswan, Trammer.
- (3) Shri Hari Kewat, Trammer.
- (4) Shri Jagnarain Rajvor, Loader.
- (5) Shri Lakhan Jaiswara, Loader.
- (6) Shri Lalchand Harijan, Loader.
- (7) Shri Chedilal Rajvor, Loader.
- (8) Shri Rajdeo Harijan, Loader.
- (9) Shri Sritram Kurmi, Pick Miner.
- (10) Shri Chiller Harijan, Pick Miner.
- (11) Shri Jamarudin Mia, Trammer.
- (12) Shri Srikanta Das, C. C. Driver.
- (13) Shri Muneswar Singh, C. C. Helper.

If not, what relief the workmen are entitled?"

[No. 6/52/69-LR. II.]

*New Delhi, the 1st September 1969*

**S.O. 3707.**—In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), and in continuation of the order of the Government of India No. S.O. 2537 dated the 1st June 1969, the Central Government hereby refers to the Central Government Industrial Tribunal (No. 3), Dhanbad, constituted under section 7A of this Act, the industrial dispute concerning a further batch of workmen in relation to the management of Pootkee Colliery, the managing Agents of which are Messrs Karamchand Thapar and Brothers (Private) Limited, Post Office Bhowra, District Dhanbad, and further directs that in the aforesaid order, the following amendment shall be made, namely:—

In the Schedule to the said Order, after serial No. 15 and the entries relating thereto, the following shall be inserted, namely:—

Sl. No.	Name	Designation
16.	Shri T. K. Kar	Magazine Clerk
17.	Shri Nabu Khun	S D. Mazdoor
18.	Shri Nakul Gope	Banksman
19.	Shri Moti Gope	P. Khalasi
20.	Shri Rohan Bhowia	S. Trammer
21.	Shri Jogeshwar Bhowia	S. Trammer
22.	Shri Teni Ram	U. G. Trammer
23.	Shri Loacho Bhowia	U. G. Trammer
24.	Shri Bisoon Barhi	U. G. Trammer
25.	Shri Kali Charan	Loading Sirdar
26.	Shri Murli Bhowia	L. Mazdoor
27.	Shri Golak	L. Mazdoor
28.	Shri Dhukanti Jaswara	Miner
29.	Shri Ramlal	Miner
30.	Shri Ram Sumer Jaswara	Miner
31.	Shri Bhoti Dusad	Miner
32.	Shrimati Bhatni Kamin	Loading Mazdoor".

[No. F. 2/130/68-LR11.]

**S.O. 3708.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Messrs Bengal Coal Company Limited, Post Office Dishergarh, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, Calcutta, constituted under Section 7A of the said Act.

#### SCHEDULE

"In view of the transfer of management of Adjai Second Colliery of Messrs Harkrishan Singh Chopra and Brothers (Collieries) Private Limited to Messrs Bengal Coal Company Limited with effect from the 1st April, 1969, whether the management of Messrs Bengal Coal Company Limited is justified in refusing re-employment of the following workmen from the said date? If not, to what relief are these workmen entitled?



Serial No.	Names	Designation
1.	Shri Biren Harijan . . . . .	S. F. Mining Sardar
2.	„ Ramraj Harijan . . . . .	Do.
3.	„ Lera . . . . .	Underground loader.
4.	„ Ram Charan . . . . .	Do.
5.	„ Bhagu . . . . .	Do.
6.	„ Sorju . . . . .	Do.
7.	„ Ram Bachan . . . . .	Do.
8.	„ Ramlal . . . . .	Do.
9.	„ Radha Mohan . . . . .	Do.
10.	„ Mohit . . . . .	Do.
11.	„ Rampat . . . . .	Do.
12.	„ Balgobind . . . . .	Do.
13.	„ Jagannath Ojha . . . . .	Machine Mazdoor.
14.	„ Ram Gobind . . . . .	Explosive carrier.
15.	„ Bhawani Singh . . . . .	Pump Driver.
16.	„ Sati Ram . . . . .	Dresser.
17.	„ Sahati Ram . . . . .	Drill Driver.
18.	„ Sripath . . . . .	General Mazdoor.
19.	„ Chandrika . . . . .	Looseman.
20.	„ Raja Ram . . . . .	Drill Driver.
21.	„ Sudhir Roy . . . . .	Fitter Helper.
22.	„ Amrit Roy . . . . .	Haulage Driver.
23.	„ Rajpati . . . . .	Underground loader

[No. 6/24/69-LRII.]

*New Delhi, the 2nd September 1969*

**S.O. 3709.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Messrs M. S. Sawhney and Sons, Chandivali, Bombay and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal, (No. 2) Bombay, constituted under section 7A of the said Act.

#### SCHEDULE

“Whether action of the management of Messrs M. S. Sawhney and Sons, Chandivali, Bombay, in terminating the services of Sarvashri Sangram Dharma Kamble and Sadashiv Eknath, with effect from the 25th January, 1969 and the 4th May, 1968 respectively was justified? If not, to what relief are the workmen concerned entitled”.

[No. 36 (21)/69-LRIV]

#### CORRIGENDA

*New Delhi, the 30th August 1969*

**S.O. 3710.**—In the order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No.

S. O. 2966, dated the 17th July, 1969 published at page 3174 of the Gazette of India, Part II Section 3 Sub Section (ii) dated the 26th July, 1969,

In line 2 of the Schedule for "30th August, 1968" read "13th August, 1968"

[No. 2/94/69-LRII.]

*New Delhi, the 1st September 1969*

**S.O. 3711.**—In the Order of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 1990 dated the 13th May, 1969, published at page 2111 of the Gazette of India, Part II, sub section 3(ii), dated the 24th May, 1969.

In line 3 of the Schedule for:

"to the 1st December, 1968" read "till the dates they were given employment in their respective posts".

[No. 2/253/68-LR. II].

P. C. MISRA, Under Secy.

### (Department of Labour and Employment)

*New Delhi, the 29th August 1969*

**S.O. 3712.**—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Hukam Chand Insurance Company Limited and their workmen, which was received by the Central Government on the 21st August, 1969.

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA.

REFERENCE No. 30 of 1969

#### PARTIES :

Employers in relation to the Hukam Chand Insurance Company Limited,

AND

Their workmen.

#### PRESENT :

Shri B. N. Banerjee—Presiding Officer.

#### APPEARANCES :

*On behalf of Employers:*—Shri Suman Kumar Ghosh, Advocate.

*On behalf of Workmen:*—Shri Pradip Ranjan Paul, Vice-President, Eastern Zone Insurance Employees' Association

STATE: West Bengal

INDUSTRY: Insurance.

#### AWARD

By Order No. 25/2/69-LRIII, dated March 21, 1969, the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), referred the following industrial dispute between the employers in relation to the Hukam Chand Insurance Company Limited and their workmen, to this tribunal, for adjudication, namely:—

"Whether the management of Messrs Hukamchand Insurance Company Limited, Calcutta, was justified in terminating the services of Sarvasri Amal Chandra Nath, Assistant, and K. N. H. Nair, Typist, with effect from the 1st November 1968? If not, to what relief are the workmen entitled?"

2. Of the two workmen, whose termination of services was referred to this Tribunal, K. N. H. Nair did not put up any contest. There had been one written statement filed on behalf of the workmen represented by their trade union, the General Insurance Employees Association, Eastern Region. At the hearing, however, Mr. P. Paul appearing for the trade union submitted that he would not argue the case of K. N. H. Nair. K. N. H. Nair is also not present before this

Tribunal today (11th August, 1969). In these circumstances, I presume that there is no subsisting dispute between the employers and K. N. H. Nair and I record a 'no dispute' award in so far as he is concerned.

3. This award now proceeds to deal with the case of Amal Chandra Nath, Assistant only.

4. It is an admitted case that Amal Chandra Nath was appointed as an assistant in the motor department of the employer company on December 1, 1967. His service was terminated, by retrenchment, by a notice dated October 28, 1968 (Ext. A for the employers and Ext. 1 for the workmen). The notice of retrenchment reads:

"This is to inform you that as from today we are retrenching you for employment as we find that our office is overstaffed and further we desire to effect economy in the working of the Company in order to prevent violation of the Provisions of Section 40C of the Insurance Act, 1938. You must be aware that the Company has been incurring losses for the last two years. In view of all these situations we are compelled by these events to take immediate steps to curtail our expenditure to avoid action by Controller of Insurance.

We are herewith sending you a cheque for the following amounts which become payable to you as result of the said retrenchment.

- |  |           |
|--|-----------|
| 1. One month's notice pay under Section 25F of the Industrial Disputes Act   | Rs. 240/- |
| 2. Compensation for the services at the rate of 15 days wages for every year completed service (period above six months is treated as one year). | Rs. 120/- |
| 3. Earned wages for the period from 1st October 1968 to 31st October, 1968   | Rs. 240/- |
| Total  | Rs. 600/- |

The total amount due to you is Rs. 600/- for which the cheque is enclosed.

We are duly informing the authorities as per the provisions of the Industrial Disputes Act about the retrenchment.

We shall issue to you, if you so desire, the necessary certificate of employment which may help you to get employment elsewhere."

5. Now under the definition of retrenchment in Section 2(oo) of the Industrial Dispute Act:

"retrenchment means the termination by the employer of the services of a workman for any reason whatsoever otherwise than as a punishment inflicted by way of disciplinary action, but does not include (a) voluntary retirement of workman; or (b) retrenchment of the workman on reaching the age of superannuation, if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or (c) termination of the services of a workman on the ground of continued ill health."

In the case of Amal Chandra Nath, it appears from Ext. A and 1 quoted above, that the retrenchment was effect for the purpose of effecting economy in the working of the employer company. That was good enough reason, if it was true. Further, according to Section 25F of the Industrial Disputes Act:

"25F. No workman employed in any industry, who has been in continuous service for not less than one year under employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of notice;

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service;

- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay (for every completed year of continuous service) or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government (or such authority as may be specified by the appropriate Government by notification in the Official Gazette)."

I have already set out the notice of retrenchment. The notice complied with the formalities of Section 25F, in that the workman was paid a month's wages in lieu of notice was supplied with the reasons for retrenchment and was paid the Statutory compensation as required by the section. The Rule of "Last come first go" was also observed, as appears from the evidence of the workman himself.

6. The employer company was, however, in a bad shape so far as the conduct of this reference was concerned. The employer company filed their written statement but failed to produce the documents as directed and also failed to produce their witnesses on the first date of peremptory hearing or on the adjourned date of hearing, although they had been mulcted with costs for their remissness.

7. Having considered the evidence, I find that the employer company is now in a position of some helplessness in Calcutta. The Calcutta office is being run with only three assistants. Of them one is present in the Tribunal, namely, the accountant named Kalosona Das. He openly declined to depose on behalf of the company, when Mr. Saumen Kumar Ghose, learned advocate for the company asked him to go to the witness box. I called Kalosona Das a Court witness and had this fact recorded out of his own mouth.

8. Now, Mr. Ghosh, learned advocate for the company, argued that there was a very small profit made by the company for the year 1966, amounting to Rs. 23,322.25 paise (vide Ext. D). In the next year, namely in the year 1967, the Company suffered a loss of Rs. 1,87,930 (vide Ext. E). He further submitted that there was notice under Section 40C of the Insurance Act, 1938, served upon the company by the Controller of Insurance, calling upon the company to impose limitations on managerial expenditure. That necessitated the retrenchment. In the absence of better evidence, this case, however, he could not establish.

9. It is admitted by Amal Chandra Nath, the concerned workman, that in October, 1968, six or seven persons apart from he himself were retrenched and after the retrenchment only three persons of the names of Kalosona Das, Naren Das and Panchanan Kabi continued to serve in the Calcutta office. If this be so, then it goes to indicate that the company was more or less winding up its Calcutta affairs or was trying to run the show only with a skeleton staff. This may indicate financial insolvency of the company.

10. Mr. P. Paul for the trade union of the workmen, however, contended that the retrenchment was not effected for economic reason and the reason given was sham or untrue. I need not concern myself very much with this aspect of the matter, because the retrenchment of Amal Chandra Nath in November, 1968, is now a closed chapter. After retrenchment and litigation over it, the workmen and the management agreed to re-employ Amal Chandra Nath on a temporary basis. This appears from Ext. B, letter addressed to the concerned workman Amal Chandra Nath, which is set out below:

"As agreed upon in the conference held between the representative of the Union and the Management represented by Shri S. P. Gupta, Dy. Regional Manager, Shri S. C. Haralalka, Principal Office Representative witnessed by Shri B. Shamsukha, you are hereby appointed on purely on temporary basis with effect from 8-2-1969.

You will be paid a consolidated pay which you drew at the time of retrenchment."

After that letter, it is too late for the concerned workman to make a grievance of his retrenchment prior to reappointment.

11. Amal Chandra Nath voluntarily gave up this reappointment, when he got an appointment in Union Cooperative Insurance Company in June, 1969. He said in his evidence, 'I voluntarily left work of Hukumchand Insurance Company with effect from May 5, 1969'. If he himself left the work, his own choice, his grievance against the company is not understandable.

12. Moreover, the concerned workman in his evidence further stated:

"I do not want reinstatement because I am serving elsewhere. I want compensation for the period of enforced idleness."

This is a novel claim. The workman does not seek relief against retrenchment. He does not want reinstatement. He wants money value for the period of his enforced idleness, before his reappointment. I do not see how he claims this relief. The grievance against enforced idleness was settled by accepting reappointment.

13. In the result, I hold,

(i) that there should be a 'no dispute' award recorded so far as K. N. H. Nair is concerned for reasons hereinbefore stated. I award accordingly.

(ii) that whether the management of Messrs Hukumchand Insurance Company had been justified in terminating the services of Amal Chandra Nath with effect from 1st November, 1968, is of irrelevant consideration now, because his grievance, if any, against the termination was met by giving him a reappointment.

(iii) that the workman concerned is not entitled to any relief. This is my award.

(Sd.) B. N. BANERJEE,

Presiding Officer,

[No. 25/2/69-LRII (LRI).]

Dated, August 19, 1969,

New Delhi, the 3rd September 1969

**S.O. 3713.**—Whereas the Central Government, being satisfied that the public interest so required, had declared by a notification made in pursuance of the provisions of the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), [being the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), No. S.O. 1023, dated the 5th March, 1969], service in hospitals and dispensaries carried on by or under the authority of the Central Government, to be a public utility service for the purpose of the said Act for a period of six months from the 7th March, 1969;

And whereas the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in pursuance of the provisions of the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said service to be a public utility service for the purposes of the said Act for a further period of six months from the 7th September, 1969.

[No. F.1/56/69-LR-I.]

# ORDER

New Delhi, the 30th August 1969

**S.O. 3714.**—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Vijaya Bank Limited and their workmen in respect of the matter specified in the Schedule hereto annexed;

And, whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal of which Shri B. M. Jayamahadeva Prasad shall be the Presiding Officer, with headquarters at Bangalore and refers the said dispute for adjudication to the said Tribunal.

# SCHEDULE

"Whether the demand of the workmen of the Vijaya Bank Limited, Mangalore-3 that their period of apprenticeship should be counted for purposes of granting annual increment and seniority is justified? If so, to what relief are they entitled?"

[No. 23/31/69-LR-III.]

S. S. SAHASRANAMAN, Under Secy.

## (Department of Labour and Employment)

*New Delhi, the 29th August 1969*

**S.O. 3715.**—Whereas it appears to the Central Government that the employer and the majority of the employees in relation to the establishment known as The Atlantic Oil Company Private Limited, 14, Grandforeshore Road, Ram Krishtapur Ghat, Howrah, West Bengal have agreed that the provisions of the Employees' Provident Funds Act, 1952 (19 of 1952), should be made applicable to the said establishment;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 1 of the said Act, the Central Government hereby applies the provisions of the said Act to the said establishment.

This notification shall be deemed to have come into force on the thirty first day of January, 1969.

[No. 8/80/69/PF-II.]

## (श्रम और नियोजन विभाग)

नई दिल्ली, 29 अगस्त, 1969

क्र० प्र०. 3716. —यतः केन्द्रीय सरकार को यह प्रतीत होता है कि एटलान्टिक आयल कम्पनी प्राइवेट लिमिटेड 14, ग्रेण्डफोर्शोर रोड, रामकृष्णपुर घाट, हावड़ा, पश्चिमी बंगाल, नामक स्थापन से सम्बन्धित नियोजक और कर्मचारियों को बहुपक्षीय इस बात से सहमत हो गई है कि कर्मचारी भविष्य निधि अधिनियम, 1952 (1952 का 19) के उपबन्ध उक्त स्थापन को लागू किए जाने चाहिए।

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 1 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के उपबन्ध उक्त स्थापन को एतद्वारा लागू करती है।

यह अधिसूचना जनवरी 1969 के इक्कीसवें दिन को प्रवृत्त हुई समझी जाएगी।

[सं 8/80/69/पी० एफ०-II]

*New Delhi, the 30th August 1969*

**S.O. 3717.**—Whereas the Central Government was satisfied that M/s. Ratnakar Canning Industries was situated in Ratnagiri area which was a sparse area (that is, an area whose insurable population was less than 500) in the district of Ratnagiri in the State of Maharashtra;

And, whereas by virtue of its location in a sparse area, the aforesaid factory was granted exemption from the payment of the employer's special contribution under section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), until enforcement of the provisions of Chapter V of the Act in that area by the Central Government in the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 2407, dated the 27th June, 1968;

And, whereas the Central Government is satisfied that the insurable population of the Ratnagiri area in the district of Ratnagiri in the State of Maharashtra has now exceeded 500, and it is no longer a sparse area;

Now, therefore, in exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendment in the said notification, namely:—

In the Schedule to the said notification, against serial No. 8, the entry "Ratnagiri" in column (3) and the corresponding entry in column (4) shall be omitted

[No. F. 6/4/69-HI.]



**S.O. 3718.**—Whereas the Central Government was satisfied that (1) M/s. Annappa Narayan Oil Mills, (2) E.M. Power Laundry, (3) M/s. Hind Metal Works, (4) Indian Hume Pipe Company Limited, (5) Jethalal Keshavji Jivandas Mill, (6) S. T. Karad Depot, (7) Karad Electric Supply Company, (8) Karad Industries, (9) Karad Swastik Industrial Works, (10) Padake Industrial Works, were situated in Karad area and (1) Balwant Mudranalayan, (2) Concrete Products, (3) Electric Grid Depot's Power House, (4) Pure Products and Madhu Canning Limited, (5) S.T. Ratnagiri Depot, (6) S.T. Workshop, were situated in Ratnagiri area, which were sparse areas (that is, areas whose insurable population was less than 500) in the district of Ratnagiri and North Satara in the State of Maharashtra;

And, whereas by virtue of their location in sparse areas, the aforesaid factories were granted exemption from the payment of the employer's special contribution under section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), until enforcement of the provisions of Chapter V of the Act in those areas by the Central Government in the notification of the Government of India in the late Ministry of Labour and Employment No. S.O. 2665, dated the 2nd November, 1961;

And, whereas the Central Government is satisfied that the insurable population of Karad and Ratnagiri areas in the districts of North Satara and Ratnagiri in the State of Maharashtra has now exceeded 500, and these are no longer sparse areas;

Now, therefore, in exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendment in the said notification, namely:—

In Schedule IV to the said notification—

- (i) Serial No. 14 and the entries relating thereto shall be omitted;
- (ii) against Serial No. 18, the entry "Ratnagiri" in column 4 and the entries relating thereto in column 5 shall be omitted.

[No. F. 6(4)/69-HL.]

**S.O. 3719.**—Whereas the Central Government was satisfied that

- (1) M/s. Shri Dhudhganga Vedganga Sahakari Sakhari Karkhana Ltd.
- (2) M/s. Bharat Iron and Metal Works.
- (3) M/s. Karad Taluka Sahakari Oil Mill Ltd.

were situated in Murgud and Karad areas which were sparse areas (that is, areas whose insurable population were less than 500) in the districts of Kolhapur and North Satara in the State of Maharashtra;

And, whereas by virtue of their location in sparse areas, the aforesaid factories were granted exemption from the payment of the employer's special contribution under section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), until enforcement of the provisions of Chapter V of the Act in that area by the Central Government in the notification of the Government of India in the late Department of Social Security No. S.O. 3447, dated the 18th September, 1964;

And, whereas the Central Government is satisfied that the insurable population of the Murgud and Karad areas in the districts of Kolhapur and North Satara in the State of Maharashtra has now exceed 500, and these are no longer sparse areas;

Now, therefore, in exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendment in the said notification, namely:—

In the Schedule to the said notification,—

- (i) against serial No. 2, the entry "Murgud" in column 3 and the entry relating thereto in column 4 shall be omitted;
- (ii) against serial No. 4, the entry "Karad" in column 3 and the entry relating thereto in column 4 shall be omitted.

[No. F. 6/4/69-HI.]

*New Delhi, the 3rd September 1969*

**S.O. 3720.**—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952) and in supersession of the notification of the Government of India in the late Department of Social Security S.O. No. 3601, dated the 3rd October, 1964, the Central Government hereby appoints Shri K. M. Bhatt, Assistant Provident Fund Commissioner (Grade I), Madhya Pradesh, to be an Inspector for the whole of the State of Madhya Pradesh for the purposes of the said Act and of any scheme framed thereunder, in relation to any establishment belonging to, or under the control of the Central Government, or in relation to any establishment connected with a railway company, a major port, a mine or an oil field, or a controlled industry.

[No. 18(20)/68-PF.I(i).]

**S.O. 3721.**—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), and in supersession of the notification of the Government of India in the late Ministry of Labour and Employment S.O. No. 2079, dated the 25th August, 1961, in so far as it relates to Shri M. C. Das, the Central Government hereby appoints Shri M. C. Das to be an Inspector for the whole of the State of Uttar Pradesh for the purposes of the said Act and of any Scheme framed thereunder, in relation to any establishment belonging to, or under the control of the Central Government or in relation to any establishment connected with a railway company, a major port, a mine or an oil-field or controlled industry.

[No. 20(20)/69-PF.I.]

DALJIT SINGH, Under Secy.

नई दिल्ली, 3 सितम्बर 1969

**एस० ओ० 3722:**—कर्मचारी भविष्य निधि अधिनियम, 1952 (1952 का 19) की धारा 13 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार के भूतपूर्व श्रम और नियोजन मंत्रालय की अधिसूचना सं० का० आ० 2079, तारीख 25 अगस्त 1961 को वहाँ तक जहाँ तक कि उसका सम्बन्ध श्री एस० सी० दास से है, (अधिकांत करने हुए केन्द्रीय सरकार श्री एस० सी० दास को उक्त अधिनियम और उसके अधीन बनाई गई किसी स्कीम के प्रयोजनों के लिये केन्द्रीय सरकार के या उसके नियंत्रणाधीन के किसी स्थापन के संबंध में

या किसी रेल कम्पनी, महा पत्तन, खान या मेल क्षेत्र या नियंत्रित उद्योग के सम्बन्ध में सम्पूर्ण उत्तर प्रदेश राज्य के लिए एतद्द्वारा निरीक्षक नियुक्त करती है।

[सं० 20 (20)/69-पी० एफ० 1]

दलजीत सिंह, अवर सचिव।

(Department of Labour and Employment)

[Office of the Chief Labour Commissioner (Central)]

ORDER

New Delhi, the 2nd September 1969

**S.O. 3723.**—Whereas an application has been made under Section 19(b) of the Payment of Bonus Act, 1965 by Messrs. Central Provinces Manganese Ore Co. Ltd., (employer) in relation to their establishments mentioned in the Schedule below for extension of the period for the payment of bonus to their employees for the accounting year ending on 31st December, 1968.

And whereas being satisfied that there are sufficient reasons to extend the time I have, in exercise of the powers conferred on me by the proviso to clause (b) of Section 19 of the said Act read with the notification of the Government of India in the Ministry of Labour and Employment No. WB-20(42)/65 dated the 28th August, 1965, passed orders on 1st September, 1969, extending the period for payment of the said bonus by the said employer by 2(Two) months from the last date for payment of bonus under clause (b) of Section 19 of the Act.

Now this is published for information of the employer and all the employees of the said establishment.

THE SCHEDULE

Name and address of the employer(s).	Establishment(s)
The Central Provinces Manganese Ore Co. Ltd., P. O. Box No. 8, Nagpur.	Dongri Buzurg Mine

[No. BA.6(14)/69-LSI.]

O. VENKATACHALAM,

Chief Labour Commissioner (Central).

**(Department of Rehabilitation)**

**(Office of the Chief Settlement Commissioner)**

*New Delhi, the 7th August 1969*

**S.O. 3724.**—In exercise of the powers conferred by sub-section (i) of Section 3 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Shri Rajni Kant as Deputy Chief Settlement Commissioner for the purpose of performing the functions assigned to such Commissioner by or under the Said Act, with immediate effect.

[No. 5(8)/AGZ/65.]

A. G. VASWANI,

Settlement Commissioner (A) & *Ex-Officio* Under Secy.

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**(Department of Rehabilitation)**

**(Office of the Chief Settlement Commissioner)**

*New Delhi, the 2nd September 1969*

**S.O. 3725.**—In exercise of the powers conferred by Sub-Section 1 of Section 34 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby directs that the powers exercisable by it under Sub-Section 4 of Section 24, 28 and Section 33 of the said Act, shall be exercisable also by the Financial Commissioner (Revenue) and Secretary to the Government of Haryana, Rehabilitation Department, in respect of proceedings pertaining to (i) agricultural lands and shops in any rural area including houses, cattle sheds and vacant sites forming part of the Compensation Pool, and (ii) the properties referred to in the Notification of the Government of India in the Ministry of Works, Housing & Rehabilitation (Department of Rehabilitation) No. 3(37)/L&R-63A dated the 5th March, 1964, situate within the State of Haryana subject to the condition that he shall not exercise any of such powers in relation to any matter in which an order has been made by him in any other capacity.

[No. F. 3(2)/L&R/69.]

H. K. TANDON, Jt. Secy.

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**MINISTRY OF INDUSTRIAL DEVELOPMENT, INTERNAL TRADE AND  
COMPANY AFFAIRS**

**(Department of Industrial Development)**



**(Indian Standards Institution)**

*New Delhi, the 14th August 1969*

**S.O. 3726.**—In pursuance of sub-rule (2) of rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955 the Indian Standards Institution hereby notifies that the Standard Mark(s), design(s) of which together with the verbal description of the design(s) and the title(s) of the relevant Indian Standard(s) are given in the Schedule hereto annexed, have been specified.

These Standard Mark(s) for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952 and the Rules and Regulations framed thereunder, shall come into force with effect from 24th July, 1969:

## THE SCHEDULE

Sl. No.	Design of the Standard Mark	Product/Class of Product	No. and Title of the Relevant Indian Standard	Verbal description of the Design of the Standard Mark
(1)	(2)	(3)	(4)	(5)
1	IS:198	Varnish gold size	IS: 198-1952 Specification for varnish, gold size.	The monogram of the Indian Standards Institution consisting of letters 'ISI', drawn in the exact style and relative proportions as indicated in col. (2), the number designation of the Indian Standard being superscribed on the top side of the monogram as indicated in the design.
				
2	IS:348	French polish	IS: 348-1952 Specification for french polish.	The monogram of the Indian Standards Institution, consisting of letters 'ISI', drawn in the exact style and relative proportions as indicated in col. (2), the number designation of the Indian standard being superscribed on the top side of the monogram as indicated in the design.
				

[No. CMD/13:9.]

**S.O. 3727.**—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the marking fee(s) per unit for various products—details of which are given in the Schedule hereto annexed, have been determined and the fee(s) shall come into force with effect from 24th July, 1969:

## THE SCHEDULE

Sl. No.	Product/Class of Products	No. and Title of Relevant Indian Standard	Unit	Marking Fee per Unit
(1)	(2)	(3)	(4)	(5)
1	Varnish gold size	IS: 198-1952 Specification for varnish, goldsize	One litre	0.5 paise
2	French polish	IS : 348-1952 Specification for french polish	One litre	0.5 paise

[No. CMD/13:10.]

New Delhi, the 22nd August 1969

**S.O. 3728**—In pursuance of sub-regulations (2) and (3) of regulation 3 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the Indian Standard(s), particulars of which are given in the Schedule hereto annexed, have been established during the period 16 July to 15 August, 1969 :

## THE SCHEDULE

Sl. No. and Title of the Indian Standard Established	No. and Title of the Indian Standard or Standards, if any, superseded by the new Indian Standard	Brief Particulars
(1)	(2)	(3)
1 IS : 259-1959 Specification for ammonium alum ( <i>first revision</i> ).	IS : 259-1950 Specification for ammonia alum, technical.	This standard prescribes the requirements and the methods of sampling and test for ammonium alum (aluminium ammonium sulphate), commercially known as ammonia alum. (Price Rs. 5.50)
2 IS : 707-1968 Glossary of terms applicable to timber and timber products ( <i>first revision</i> ).	IS : 707-1958 Glossary of terms applicable to timber and timber products.	This standard covers definitions of common terms applicable to timber and timber products (Price Rs. 9.00)
3 IS : 1027-1963 Specification for paper-insulated cables for use in mines.	—	This standard covers the requirements for impregnated paper lead-alloy sheathed wire-armoured cables of non-draining type for use at voltages up to and including the following: 0.65/1.1 kV, 1.9/3.3 kV, 3.8/6.6 kV (earthed system), 1.1 kV, 3.3 kV, 6.6 kV (unearthed system), and 250 V grade twin core for lighting purposes). (Price Rs. 8.00)
4 IS : 1176-1969 Dimensions for aerial rods and slabs made of ferromagnetic materials.	—	This standard lays down the dimensions of aerial rods with circular cross-section and of aerial slabs of approximately rectangular cross-section, made of ferromagnetic oxide (Price Rs. 1.50)
5 IS : 2148-1968 Specification for flameproof enclosures of electrical apparatus ( <i>first revision</i> ).	IS : 2148-1962 Specification for flameproof enclosures of electrical apparatus.	This standard covers requirements for flameproof enclosures of electrical apparatus for use in mines and such other places where flammable gases or vapours may exist or may originate inside the enclosure. (Price Rs. 11.50)



(1)	(2)	(3)	(4)
6 IS : 2255-1969 Specification for mild steel wire rod for the manufacture of machine screws (by cold-heading process) ( <i>first revision</i> ).	IS : 2255-1962 Specification for mild steel wire rod for the manufacture of machine screws (by cold heading process).		This standard covers the requirements for mild steel wire rod for the manufacture of wire for machine screws or threaded fasteners conforming to IS : 1673-1960. (Price Rs. 2.00)
7 IS : 2472-1969 Specification for protective gaiters.	—		This standard prescribes the requirements, methods of sampling and test for protective gaiters, used in conjunction with safety boots (IS : 3737-1966) to protect workers against splashes of molten metal while engaged in blast furnace, cast house of steel melting shop. (Price Rs. 5.50)
8 IS : 2535-1969 Specification for basic rack and modules of cylindrical gears for general engineering and heavy engineering ( <i>first revision</i> ).	IS : 2535-1963 Specification for basic rack, moulders and diametral pitches of cylindrical gears for general engineering.		This standard specifies the dimensions of basic rack and recommended series of modules for involute cylindrical gears for general engineering and for heavy engineering. (Price Rs. 2.00)
9 IS : 2759-1969 Specification for higher tensile steel point hooks for use with wire rope thimbles.	—		This standard covers the requirements of higher tensile steel point hooks with eye for use with wire rope thimbles conforming to IS : 2315-1963. (Price Rs. 4.00)
10 IS : 3026-1968 Specification for tin salts for electroplating ( <i>first revision</i> ).	IS : 3026-1964 Specification for sodium stannate for electroplating.		This standard prescribes the requirements and the methods of sampling and test for stannous sulphate, sodium stannate, potassium stannate and stannous chloride, used for electroplating. (Price Rs. 7.00)
11 IS : 3414-1968 Code of practice for design and installation of joints in buildings	—		This standard deals with the design and installation of joints in masonry and concrete in buildings. (Price Rs. 8.00)
12 IS : 3815-1969 Specification for point hooks with shank for general engineering purposes.	—		This standard covers the requirements of mild steel and higher tensile steel point hooks with shank for general engineering purposes. (Price Rs. 5.00)
13 IS : 4595-1969 General requirements for non-parking tools.	—		This standard covers the general requirements for non-parking tools. (Price Rs. 2.50)

(1)	(2)	(3)	(4)
14	IS : 4610-1968 Specification for glass tubes for general purpose and reference thermometers.	—	This standard prescribes the requirements and the methods of sampling and test for glass tubes used in the manufacture of general purpose, reference and all other types of liquid-in-glass thermometers suitable for use with a range of $-200^{\circ}$ to $+500^{\circ}\text{C}$ . (Price Rs. 3.50.)
15	IS : 4809-1968 Specification for cotton-knitted string vests.	—	This standard prescribes the requirements of cotton-knitted string vests, bleached (Price Rs. 4.00).
16	IS : 4966 (Part I)-1968 Specification for gauges for serrations Part I for gauging external serrations.	—	This standard covers the main dimensions of GO and NOT GO gauges and their setting gauges for external serrations according to IS : 3654-1966. (Price Rs. 4.00).
17	IS : 5022-1969 Specification for sterilizer, instruments (table model).	—	This standard covers structural and functional requirements of boiling type sterilizers for sterilizing such articles as different types of instruments used in clinics and hospitals. Only the sterilizers which are used in places other than the anaesthetic-gas atmospheres come under the purview of this standard. (Price Rs. 2.50).
18	IS : 5026 (Part I)-1969 Specification for radio frequency cables Part I General requirements and tests.	—	This standard relates to the general requirements and tests for radio frequency cables of coaxial or twin conductor types designed for use in telecommunication and electronic equipment. (Price Rs. 8.00).
19	IS : 5028-1969 Glossary of mining terms (planning and surveying).	—	This standard covers the definitions of terms used in mining industry in connection with planning and surveying. (Price Rs. 3.50).
20	IS : 5029-1969 Specification for bedsteads, hospital, general purposes.	—	This standard specifies the requirements of bedsteads suitable for general purposes in hospitals and other similar institutions. (Price Rs. 5.00)
21	IS : 5033-1969 Specification for telescopic aerials for portable radio receivers	—	This standard lays down the requirements and methods of test for judging mechanical, electrical, physical and climatic properties of telescopic aerials generally intended for portable radio receivers. (Price Rs. 4.00)

(1)	(2)	(3)	(4)
22	IS : 5034-1968 Specification for chromed goatskin in wet-blue condition.	---	This standard prescribes the requirements, method of sampling and test for chrome-tanned goatskin in wet-blue condition. (Price Rs. 5.00)
23	IS : 5035-1969 Specification for sterilizers, bowl and utensil (pedal type).	---	This standard covers structural and functional requirements of boiling type sterilizers for sterilizing such articles as different types of bowls and utensils used in clinics and hospitals. (Price Rs. 3.50)
24	IS : 5037-1969 Specification for basic rack and modules of straight bevel gears for general engineering and heavy engineering.	---	This standard specifies the dimensions of basic rack and recommended series of modules for straight bevel gears for general engineering and heavy engineering. (Price Rs. 2.00)
25	IS : 5040-1969 General requirements for fork lift trucks.	---	This standard covers the rated capacity, the main dimensions and the safety requirements relating to the construction and operation of centre control, rider operated fork lift trucks with solid, cushion or pneumatic tyres with three or more tyres and tiltable masts up to and including 10 000 kg nominal capacity. (Price Rs. 4.00)
26	IS : 5041-1969 Specification for shoe, boot and stationery eyelets.	---	This standard covers the requirements for shoe, boot and stationery eyelets (round-shapped). (Price Rs. 3.50)
27	IS : 5042-1969 Specification for 1-aminoanthraquinone.	---	This standard prescribes the requirements and the methods of sampling and test for 1-aminoanthraquinone. (Price Rs. 4.00)
28	IS : 5043-1969 Specification for 2-aminoanthraquinone.	---	This standard prescribes the requirements and the methods of sampling and test for 2-aminoanthraquinone. (Price Rs. 4.00)
29	IS : 5044-1969 Specification for benzanthrone.	---	This standard prescribes the requirements and the methods of sampling and test for benzanthrone. (Price Rs. 5.00)
30	IS : 5046-1968 Specification for letterpress ink, black, book-printing.	---	This standard prescribes the requirements and the methods of sampling and test for letter press ink, black, book-printing. (Price Rs. 5.00)

(1)	(2)	(3)	(4)
31	IS : 5049-1969 Specification for gauge for wire diameters.	—	This standard lays down the requirements of a gauge to check the diameters of wires in the range 0.125 to 8 mm. (Price Rs. 2.50)
32	IS : 5056-1969 Common names for coal tar food colours.	—	This standard gives common names for coal tar food colours permitted by the Prevention of Food Adulteration Rules, 1955 together with their technical names, colour index, colour, class and chemical names. (Price Rs. 2.00)
33	IS : 5057-1969 Specification for potassium nitrite, food grade.	—	This standard prescribes the requirements and the methods of sampling and test for potassium nitrite for use as food preservative. (Price Rs. 2.00)
34	IS : 5059-1969 Code for hygienic conditions for large scale biscuit manufacturing units and bakery units.	—	This standard prescribes the hygienic conditions required for establishing and maintaining large scale biscuit manufacturing units and bakery units. (Price Rs. 3.50)
35	IS : 5061-1968 Guide for treatment of effluents of pulp, paper and board industries.	—	This Indian standard covers methods of treatment of effluents of pulp, paper, paperboard and strawboard industries. (Price Rs. 7.00)
36	IS : 5062 (Part II)-1969 Methods of test for brown coals and lignites. Part II determination of ASH.	—	This standard prescribes the method for the determination of ash in brown coals and lignites by incinerating at about 815°C till constant in weight. (Price Rs. 2.00)
37	IS : 5062 (Part IV)-1969 Methods of test for brown coals and lignites. Part IV determination of the yield of benzene-soluble extract.	—	This standard prescribes the method for determining the yield of benzene-soluble extract in brown coals and lignites. (Price Rs. 2.00)
38	IS : 5067-1969 Specification for fencing pliers.	—	This standard covers the requirements for fencing pliers. (Price Rs. 2.00)
39	IS : 5068-1969 Specification for grab hook.	—	This standard lays down the requirements for grab hook. (Price Rs. 2.50)
40	IS : 5070-1969 Method for beam unnotched impact test grey cast iron.	—	This standard prescribes the method of conducting beam unnotched impact test on grey cast iron containing graphite in flake form. (Price Rs. 2.50)

(1)	(2)	(3)	(4)
41	IS : 5071—1969 Method for flattening test for copper alloy tubes of circular section.	—	This standard prescribes the methods for conducting flattening test on copper and copper alloy tubes of circular cross section and having external diameter not greater than 100 mm and thickness not greater than 15 percent of external diameter. (Price Rs. 2.00).
42	IS : 5072—1969 Method for rockwell superficial hardness test (N and T scales) for steel.	—	This standard prescribes the method of conducting rockwell superficial hardness test (N and T scales) on steel (Price Rs. 4.00).
43	IS : 5075—1969 Method of rotating bar bending fatigue testing of steel.	—	This standard prescribes the method for rotating bar bending fatigue test on test pieces without any features involving stress concentration. (Price Rs. 3.50).
44	IS : 5076—1969 Method for calibration of standardized blocks to be used for rockwell superficial N and T scale hardness testing machines.	—	This standard prescribes the method for calibration of blocks for the indirect verification of rockwell N and T scale hardness testing machines. (Price Rs. 2.50).
45	IS : 5077—1969 Specification for decorative lighting outfits.	—	This standard specifies the design and constructional requirements and tests applicable to decorative lighting outfits for indoor use rated for a maximum voltage of 250 V. (Price Rs. 3.50).
46	IS : 5078—1969 Specification for brushes, typewriter.	— M	This standard prescribes the requirements and the methods of sampling and tests for typewriter brushes. (Price Rs. 3.50).
47	IS : 5083—1969 Specification for knifing stopper.	—	This standard prescribes the requirements and the methods of sampling and test for knifing stopper. This material is used for filling up dents and uneven spots, in conjunction with other materials. This material constitutes a part of the painting schedule for a rail coach. (Price Rs. 3.50).
48	IS : 5084—1969 Specification for nylon socks.	—	This standard prescribes the requirements for seamless socks knitted in plain, rib or fancy stitches. (Price Rs. 3.50).

(1)	(2)	(3)	(4)
49	IS : 5085—1969 Specification for berets, knitted, one-piece.	—	This standard prescribes the constructional details and other particulars of knitted berets. (Price Rs. 3.50).
50	IS : 5087—1969 Specification for wire stripping pliers.	—	This standard covers the requirements for two types of wire stripping pliers. (Price Rs. 2.50).
51	IS : 5122—1969 Specification for tyre levers.	—	This standard lays down the requirements for nine types of tyre levers. (Price Rs. 5.00).

Copies of these Indian Standards are available for sale with the Indian Standards Institution, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-1 and also its branch offices at (i) 535 Sardar Vallabhbhai Patel Road, Bombay-7 (ii) 5, Chowringhee Approach Road, Calcutta-13 (iii) 54 General Patters Road, Madras-2(iv) 117/418B, Sarvodaya Nagar, Kanpur and (v) 5-9-201/2, Chirag Ali Lane, Hyderabad-1.

[No. CMD/13 : 2.]



New Delhi, the 25th August 1969

**S.O. 3729**—In pursuance of sub-regulation (1) of Regulation 8 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended from time to time, the Indian Standards Institution, hereby, notifies that eightyfive licences, particulars of which are given in the following Schedule, have been renewed:

THE SCHEDULE

Sl. No.	Licence No. and Date	Period of Validity		Name and Address of the Licensee	Article/Process covered by the Licence and the Relevant IS: Designation
		From	To		
(1)	(2)	(3)	(4)	(5)	(6)
1	CM/L-29 1-7-1957	16-7-1969	15-3-1970	Tata Fison Industries Ltd., Union Bank Building, Dalal Street, Fort, Bombay-1.	DDT water dispersible powder concentrates—IS: 565-1961.
2	CM/L-125 23-6-1959	1-7-1969	30-6-1970	The Alkali and Chemical Corporation of India Ltd., 34, Chowringhee, Calcutta-16.	BHC emulsifiable concentrates—IS: 632-1966.
3	CM/L-134 15-7-1959	1-8-1969	30-7-1970	Motor Industries Co. Ltd., No. 22, Bannerghatta Road, Adugodi, Bangalore-30.	14 mm sparking plugs—IS: 1063-1963.
4	CM/L-169 22-2-1960	16-7-1969	15-1-1970	Mysore Insecticides Company Pvt. Ltd., Andhra Bank Building, 6, Linghi Chetty Street, Madras-1.	BHC dusting powders—IS: 561-1962.
5	CM/L-312 26-6-1961	1-7-1969	30-6-1970	Sonawala Industries Private Ltd., 137, Shaikh Menon Street, Bombay-2.	Sulphuric acid, battery, pure and analytical reagent grades—IS: 266-1961.
6	CM/L-327 31-7-1961	1-8-1969	31-7-1970	India Plywood Company, 33, S. K. Dev Road, Pathipookar, Calcutta-48.	Tea-chest Plywood panels—IS: 10-1964.
7	CM/L-424 30-6-1962	1-7-1969	31-12-1969	Anam Electrical Mfg. Co., Kadiam, East Godavari Distt., Andhra Pradesh.	Aluminium conductor, steel reinforced and all aluminium conductors—IS: 398-1961.
8	CM/L-429 30-6-1962	16-7-1969	31-8-1970	The Hindustan Mineral Products Co. Pvt. Ltd., Plot No. 27, Manganese Depot, Sewri, Bombay-15.	BHC water dispersible powder—IS: 562-1962.
9	*CM/L-430 12-7-1962	1-8-1968	31-7-1971	Indian Iron & Steel Co. Ltd., Burnpur Works, P.O. Burnpur, Distt. Burdwan, (West Bengal).	Structural steel (standard quality)—IS: 226-1962.
10	CM/L-431 18-7-1962	1-8-1969	31-7-1970	Indian Oxygen Ltd., Electrode Factory, Barrackpore Trunk Road, Khardiah, 24, Parganas.	Covered electrodes for metal arc welding of mild steel of normal penetration type—IS: 814-1967.

\* This licence was renewed for a period of three years, namely from 1-8-1968 to 31-7-1971, but was shown as renewed for one year in the notification published under number S.O. 3607 dated 25-9-1968.

(1)	(2)	(3)	(4)	(5)	(6)
11	CM/L-486 20-12-1962	16-4-1969	15-4-1970	Gautam Electric Motors Private Ltd., 42 Qkhla Industrial Estate, New Delhi-20	Single-phase small AC & universal electric motors of 1 HP with class 'A' insulation—IS: 325-1961
12	CM/L-551 25-6-1963	16-7-1969	30-4-1970	New Chemi-Mineral Mills Private Ltd, Chakravarti Ashoka Road, Industrial Estate, Kandivlee (East) Bombay-67	BHC dusting powders—IS: 561-1962
13	CM/L-553 25-6-1963	16-7-1969	31-12-1970	Mahendra Electricals Ltd., Kamla Mission Road, Nadiad (Gujarat State)	(i) PVC cables of 250 and 650 volts grade with copper and aluminium conductors (ii) PVC insulated flexible cords, 250 volts grade with copper conductors only—IS : 694 (Parts I & II)-1964
14	CM/L-554 26-6-1963	16-7-1969	31-10-1970	Annapurna Pulverising Mills, Industrial Estate, Eluru (W.G. Distt) A.P.	BHC dusting powders—IS: 561-1962
15	CM/L-555 26-6-1963	16-7-1969	15-7-1970	Aluminium Cable Co Ltd, 12/1 Mile Stone, Mauwra Road, Faridabad (Haryana)	AAC & ACSR conductors—IS: 398-1961
16	CM/L-557 2-7-1963	1-7-1969	30-6-1970	Power Cables Pvt Ltd., Vithalwadi, P.B. No. 4, Kalyan (C. Rly)	Hard-drawn stranded aluminium and steel-cored aluminium conductors for overhead power transmission purposes—IS: 398-1961
17	CM/L-597 31-10-1963	15-7-1969	15-7-1970	Camlin Pvt Limited, Kondivala, Near Marol Bazar, Andheri-Kurla Road, Bombay-59	Ink, drawing, waterproof, black—IS : 789-1955
18	CM/L-605 29-11-1963	1-7-1969	30-11-1970	Skytone Electricals (India), 43 Industrial Area, Faridabad	Rubber Insulated Cables:  Type Voltage grade conductor
(a) VIR Cables for Fixed Wiring					
(i) Braided & compounded 250/440 & 650/1 100 Volts					
(ii) Tough rubber sheathed 250/440 & 650/1 100 Volts					
(iii) Weather proof 250/440 & 650/1 100 Volts					
Copper or Aluminium					
(b) VIR Flexible Cords					
(iv) Twisted and circular artificial silk or glass cotton braided 250/440 volts					
—IS: 434 (Parts I & II)—1964					
Copper only					

19	CM/L-656 29-4-1964	1-5-1969	31-5-1970	Tensile Steel Ltd., Hirabaug, Vishwamitri Road, Baroda.	Plain hard-drawn steel wire for prestressed concrete—IS: 1785 (Part I)—1966
20	CM/L-667 7-5-1964	16-6-1969	15-6-1970	Guest Keen Williams Ltd., 41 Chowringhee Road, Calcutta	Structural steel (standard quality)—IS : 226-1962
21	CM/L-668 7-5-1964	16-6-1969	15-6-1970	Do.	Structural steel (ordinary quality)—IS: 1977-1962
22	CM/L-677 25-5-1964	1-7-1969	30-6-1970	Pesticides India, Udaisagar Road, Udaipur	DDT dusting powders—IS: 564-1961
23	CM/L-683 17-6-1964	1-7-1969	30-6-1970	Indore Steel & Iron Mills, Post Box No. 6, Bhagirathpura, Indore City, (M.P.)	Structural steel (standard quality)—IS: 226-1962
24	CM/L-684 17-6-1964	1-7-1969	30-6-1970	Do.	Structural steel (ordinary quality)—IS: 1977-1962
25	CM/L-685 17-6-1964	1-7-1969	30-6-1970	National Rolling & Steel Ropes Ltd., Nicco House, 1 & 2 Hare Street, Calcutta.	Structural steel (standard quality)—IS: 226-1962
26	CM/L-686 17-6-1964	1-7-1969	30-6-1970	Do.	Structural steel (ordinary quality)—IS: 1977-1962
27	CM/L-696 17-6-1964	16-7-1969	15-11-1970	National Insulated Cable Co of India Ltd., Nicco House, 2 Hare Street, Calcutta-1.	PVC insulated (heavy duty) electric cables for working voltages up to and including 100 volts with copper or aluminium conductors—IS: 1554 (Part I)-1964
28	CM/L-697 25-6-1964	1-8-1969	31-7-1970	Madras Electrical Conductors Pvt. Ltd., 37 Arcot Road, Kodambakkam, Madras-26	Hard-drawn stranded aluminium and steel cored aluminium conductors for overhead power transmission purposes—IS: 398-1961
29	CM/L-698 25-6-1964	16-7-1969	15-1-1970	Allied Industries, Hawa Sarak, Jaipur South, Jaipur (Rajasthan)	Cast iron flushing cisterns, 12.5 and 15 litres capacity—IS: 774-1964
30	CM/L-699 25-6-1964	16-7-1969	15-7-1970	The Bombay Oil Industries Pvt Ltd., Agra Road, Bhandup, Bombay-78	Stearic acid, technical, grade 3—IS: 1675-1960
31	CM/L-702 29-6-1964	1-8-1969	31-7-1970	Calcutta Steel Co Ltd, 4 Old Court House Street, Calcutta	Structural steel (standard quality)—IS: 226-1962
32	CM/L-703 29-6-1964	1-8-1969	31-7-1970	Do.	Structural steel (ordinary quality)—IS: 1977-1962
33	CM/L-704 29-6-1964	1-8-1969	31-7-1970	Egg'e Rolling Mills Ltd., Kumarchubi, Distt. Dhanbad, Bihar	Structural steel (standard quality)—IS: 226-1962
34	CM/L-705 29-6-1964	1-8-1969	31-7-1970	Do.	Structural steel (ordinary quality)—IS: 1977-1962
35	CM/L-710 29-6-1964	1-8-1969	31-7-1970	Bengal Rolling Mills Ltd., 67/B, Netaji Subhas Road, Calcutta	Structural steel (standard quality)—IS : 226-1962
36	CM/L-711 29-6-1964	1-8-1969	31-7-1970	Do.	Structural steel (ordinary quality)—IS: 1977-1962
37	CM/L-716 29-6-1964	1-8-1969	31-7-1970	Steel Rolling Mills of Bengal Ltd, 28 Strand Road, Calcutta	Structural steel (standard quality)—IS: 226-1962
38	CM/L-717 29-6-1964	1-8-1969	31-7-1970	Do.	Structural steel (ordinary quality)—IS : 1977-1962

(1)	(2)	(3)	(4)	(5)	(6)
39	CM/L-720 29-6-1964	1-8-1969	31-7-1970	Modern Industries, Sahibabad, Ghaziabad, Distt. Meerut.	Structural steel (standard quality)—IS: 226-1962
40	CM/L-721 29-6-1964	1-8-1969	31-7-1970	Do.	Structural steel (ordinary quality)—IS: 1977-1962
41	CM/L-724 29-6-1964	1-8-1969	31-7-1970	Kisan Ergg Works Pvt Ltd., Dankaru Station (N. Rly.), Distt. Bulandshahr (U.P.).	Structural steel (standard quality)—IS: 226-1962
42	CM/L-725 29-6-1964	1-8-1969	31-7-1970	Do.	Structural steel (ordinary quality)—IS: 1977-1962
43	CM/L-732 29-6-1964	1-8-1969	31-7-1970	Sri Rama Machinery Corpn Pvt Ltd, Catholic Centre, 5/6 Armenian Street, Madras.	Structural steel (standard quality)—IS: 226-1962
44	CM/L-733 29-6-1964	1-8-1969	31-7-1970	Do.	Structural steel (ordinary quality)—IS: 1977-1962
45	CM/L-739 10-7-1964	1-8-1969	31-7-1970	Hostess Appliances, 177 C.S.T. Road, Kalina, Bombay.	Domestic pressure cooker—IS: 2247-1966
46	CM/L-835 10-11-1964	16-7-1969	15-1-1970	The Hindustan Iron and Steel Co Ltd, 8 Rajendra Deb Road, Calcutta.	Structural steel (standard quality) of the following sections only: (1) M.S. Rounds upto 16 mm dia and over 28 mm dia; (2) M.S. Squares upto 14 mm sq. and over 28 mm sq. and (3) M.S. Angles, flats etc. where the cross-sectional area of the sample does not exceed 200 sq mm.—IS : 226-1962
47	CM/L-836 10-11-1964	16-7-1969	15-1-1970	The Hindustan Iron & Steel Co Ltd, 8 Rajendra Deb Road, Calcutta.	Structural steel (ordinary quality) of the following sections only : (1) M.S. Rounds upto 16 mm dia and over 28 mm dia; (2) M.S. Squares upto 14 mm sq and over 28 mm sq, and (3) M.S. Angles, flats etc. where the cross sectional area of the sample does not exceed 200 sq mm.—IS: 1977-1962
48	CM/L-1079 1-6-1965	16-6-1969	15-6-1970	Guest Keen Williams Ltd, 41, Chowringhee Road, Calcutta.	Rivet bars for structural purposes—IS: 1148-1964
49	CM/L-1080 1-6-1965	16-6-1969	15-6-1970	Do.	High tensile rivet bars for structural purposes—IS: 1149-1964
50	CM/L-1097 15-6-1965	1-7-1969	30-6-1970	National Rolling & Steel Ropes Ltd, Nicco House, 1 & 2 Hare Street, Calcutta.	(1) Mild steel and medium tensile steel bars for concrete reinforcement—IS: 432 (Part I)-1966 and (2) Hard-drawn steel wire for concrete reinforcement—IS: 432 (Part II)-1966

51	CM/L-1100 16-6-1965	1-7-1969	30-6-1970	The Indian Cable Co. Ltd., 9 Hare Street, Calcutta-1.	Polythene insulated and PVC — sheathed cable with aluminium / copper conductors — IS : 1596-1962.
52	CM/L-1106 30-6-1965	16-7-1969	15-1-1970	The Plant Protection Products Pvt. Ltd., Kodavallur (S. Ry), Nellore Distt.	Dieldrin emulsifiable concentrates — IS : 1054-1962.
53	CM/L-1107 6-7-1965	16-7-1969	15-7-1970	Power Cables Pvt Ltd., Kalyan (Maharashtra).	Electrodes for metal arc welding of mild steel, normal penetration types only — IS : 814-1967.
54	CM/L-1108 6-7-1965	16-7-1969	15-7-1970	Special Steels Ltd., Dattapara Road, Borvli (East), Bombay-66.	Galvanized iron and steel wire for telegraph and telephone purposes — IS : 279-1961.
55	CM/L-1109 6-7-1965	16-7-1969	15-7-1970	Do.	Mild steel wire for general engineering purposes — IS : 280-1962.
56	CM/L-1200 19-1-1966	1-7-1969	30-6-1970	Hindustan National Glass Mfg. Co. Ltd., Bahadurgarh, Distt. Rohtak.	Glass milk bottles, 500 ml only — IS : 1292-1967.
57	CM/L-1282 23-6-1968	1-7-1969	30-6-1970	Anil Glass Industries Pvt. Ltd., 14/1 Delhi Mathura Road, Haryana.	Laminated safety glass — IS : 2553-1962.
58	CM/L-1287 28-6-1966	1-7-1969	30-6-1970	S. R. Sharma & Sons., 85 Netaji Subhas Road, Calcutta-1.	Sand-cast brass screw down bib taps, 1/2", 3/4" sizes ; and stop taps, 1/2", 3/4", and 1" sizes — IS : 781-1967.
59	CM/L-1289 30-6-1966	16-7-1969	15-7-1970	Parshuram Pottery Works Co. Ltd., Thergach, Near Rly Station, (Gujarat State).	Vitreous sanitary appliances (vitro-cs china consisting of : (1) Wash-down water-closets, pattern 1, with 'P' trap and 'S' trap. (2) Squatting pans and traps, long pattern size 450, 580 and 680 mm. (3) Squatting pans and traps, Orissa pattern, size 580 x 440 mm. (4) Wash basins, flat back, size 630 x 450 mm and 550 x 400 mm with two traps, and 450 x 300 mm with one trap. (5) Wash basins, angle back, pattern 1, size 600 x 480 mm. (6) Urinals, bowl pattern, flat back, size 430 x 260 x 350 mm. (7) Urinals, bowl pattern, angle back size 340 x 430 x 265 mm. (8) Squatting plate urinal, size 600 x 350 mm and 450 x 350 mm — IS : 2556-1967.
60	CM/L-1462 16-6-1967	16-6-1969	15-6-1970	Mohatta & Heckel Ltd., Mustafa Building, Sir P. M. Road, Fort, Bombay-1.	Steel wire ropes for haulage purposes in mines — IS : 1856-1961.
1	CM/L-1469 30-6-1967	1-7-1969	30-6-1970	Bharat Carbon & Ribbon Mfg. Co. Ltd., Plot No. 66-A, Industrial Area, Faridabad Township, (Haryana).	Ink, duplicating, all weather, black for drum type machines — IS : 1333-1958.

(1)	(2)	(3)	(4)	(5)	(6)
62	CM/L-1470 7-7-1967	16-7-1969	15-12-1970	Fort Gloster Industries Ltd., 31 Chowringhee Road, Calcutta-16.	(a) Weather proof PVC insulated and PVC sheathed cables with aluminium conductors only of the following types : (i) Single core, 250/440 and 650/1 100 volts, (ii) Twin core flat, 250/440 and 650/1 100 volts IS : 3035 (Part I) — 1965 and (b) Weatherproof polythene insulated, taped braided and compounded cables with aluminium conductors only of the following types : (i) Single core, 250/440 and 650/1 100 volts (ii) Twin core flat, 250/440 and 650/1 100 volts— IS - 3035 (Part II)—1965
63	CM/L-1471 16-7-1967	16-7-1969	15-7-1970	Gujarat Steel Tubes Ltd., Near Kali Village, Sabarmati, Ahmedabad.	Mild steel tubes, black and galvanised, light, medium and heavy grades — IS : 1239 (Part I)— 1968
64	CM/L-1472 13-7-1967	16-7-1969	31-8-1970	The Hindustan Mineral Product Co. Pvt. Ltd., 27, Manganese Depot, Sewri, Bombay-15.	Endrin emulsifiable concentrates — IS : 1310-1958
65	CM/L-1473 13-7-1967	16-7-1969	15-12-1969	Keen Pesticides (P) Limited, Industrial Estate, Mudical P.O., Perumbavoor (via), Ernakulam-1. (Kerala State).	Endrin emulsifiable concentrates — IS : 1310-1958
66	CM/L-1584 14-12-1967	16-7-1969	15-1-1970	Shri Sampuran Saw Mills, Saharanpur Road, P.O. Yamuna Nagar, Distt. Ambala (Haryana).	Plywood tea-chest battens— IS 10-1964.
67	CM/L-1604 5-1-1968	1-7-1969	30-6-1970	Jaypore Tea-Chest fittings Mfg. Co., 35 Chittaranjan Avenue, (3rd Floor) Calcutta-12.	Tea-chest metal fittings — IS : 10-1964
68	CM/L-1605 5-1-1968	1-7-1969	30-6-1970	Makum Tea Chest Fittings Mfg. Co., 35 Chittaranjan Avenue, (3rd Floor), Calcutta-12.	Do.
69	CM/L-1613 9-1-1968	16-7-69	15-7-1970	Jai Chemicals, 14/1, Mathura Road, Faridabad (Haryana).	Malathion emulsifiable concentrates—IS:2567-1963
70	CM/L-1692 13-5-1968	16-7-1969	15-7-1970	P.V.C. Wires & Cables Pvt. Ltd., 1, Ishan Ghosh Road, Calcutta-8.	Hard-drawn stranded aluminium and steel-cored aluminium conductors for overhead power transmission purposes—IS:398-1961
71	CM/L-1704 21-5-1968	22-7-1969	15-7-1970	Chemicals and Insecticides, Ramnagar Karanjaha, Rly. Station, Kusmbi/N.E. Rly. Gorakhpur (U.P.).	BHC dusting powders—IS:561-1962
72	CM/L-1711 4-6-1968	16-6-1969	15-6-1970	Bazizad & Sons, S/6, Industrial Area, Jullundur City.	(i) Footballs (laceless), (ii) Volleyballs (laceless) and (iii) Basketballs (laceless)—IS:417-1965
73	CM/L-1713 6-6-1968	16-6-1969	15-6-1969	Bharat Steel Tubes Ltd., Ganaur, Distt. Rohtak, (Haryana).	Mild steel tubes—IS:1239 (Part I)—1968!



74	CM/L-1725 18-6-1968	1-7-1969	30-4-1970	Hans Raj Mahajan & Sons, G. T. Road, Jullundur City.	Cricket bats—IS-434 (Parts I & II)—1964
75	CM/L-1726 18-6-1968	16-6-1969	15-6-1970	Apeejay Structural Ltd., P.O. Rajbandh (E. Rly.) Distt. Burdwan.	Welded low carbon gas cylinders for storage and transportation of liquefied petroleum gases—IS: 3196-1968.
76	CM/L-1728 25-6-1968	1-7-1969	30-6-1970	The Indian Steel Rolling Mills Ltd., Main Road, Tiruninravur, Chingleput Distt.	Hot rolled mild steel and medium tensile steel deformed bars for concrete re-inforcement—IS:1139-1966.
77	CM/L-1729 27-6-1968	1-7-1969	30-6-1970	Kirloskar Brothers Ltd., Udyog Bhavan, Tilak Road, Poona-9.	Sluice valves for water works purposes (with non-ferros spindles and rings), class I, with nominal sizes upto 150 mm—IS:780-1967
78	CM/L-1730 28-6-1968	1-7-1969	31-10-1970	Bombay Wire Ropes Ltd., 'Nirmal' 3rd Floor, 241, Backbay Reclamation, Nariman Point, Bombay-20.	Steel wire ropes for haulage purposes in mines—IS:1856-1961
79	CM/L-1731 28-6-1968	1-7-1969	30-6-1970	Forge & Blower Co., (Propri: Laljiibhai Jivram Pvt. Ltd.) Naroda Road, Ahmedabad-2, Gujarat State.	Three-phase induction motors, 2.2 kw (3 HP), 3.7 kw (5 HP), 5.6 kw (7.5 HP) and 7.5kw (10 HP) with class 'A' insulation—IS:325-1961
80	CM/L-1733 8-7-1968	16-7-1969	15-7-1970	Sun Industries, 1/B, Rina Kista Sen Lane, Calcutta-4.	Tea-cnest plywood panels—IS:10-1964
81	CM/L-1734 10-7-1968	16-7-1969	15-1-1970	Breewill & Co., S-33 Industrial Area, Jullundur City.	(1) Footballs (laceless), (2) Basket-balls (laceless) and (3) Volleyball (laceless)—IS:417-1965
82	CM/L-1736 11-7-1968	16-7-1969	15-7-1970	Pesticides Ltd., Chitalsar Manpada, Ghodbunder Road, Thana.	Zinc phosphide, technical—IS:1251-1958
83	CM/L-1738 11-7-1968	16-7-1969	28-2-1970	Central Insecticides & Fertilizers Saki Naka, Vikar Lake Road, Kurla, Bombay-70.	DDT dusting powders—IS:564-1962
84	CM/L-1743 15-7-1968	16-7-1969	15-7-1970	Indian Copper Corpn. Ltd., Mouhandar Works, Ghatsila P.O. Distt. Singhbhum, Bihar S.E. Rly.	Brass sheet/strip, grade Cu Zn 30, Cu Zn 37 and Cu Zn 40—IS:110-1967
85	CM/L-1751 28-7-1968	1-8-1969	15-3-1970	National Electro Mechanical Co., Dhebarohai Road, Bhaktinagar, Rajkot-2.	Single-phase AC motors of 0.37 kw (0.5 HP rating with class 'A' insulation IS:996-1964

[No. CMD/13 : 12.]

*New Delhi, the 29th August 1969*

**S.O.3730** In pursuance of sub-regulation (4) of regulation 14 of the Indian Standards Institution (Certification Marks) Regulation, 1955, as amended from time to time, the Indian Standards Institution hereby notifies that licences No. CM/T—1509, 1809 and 1818, particulars of which are given below, have been cancelled with effect from 1 August, 1969.

Licence No.	Name and address of the licensee	Article/Process covered by the licence	Relevant Indian Standard
CM/L-1509 Dated 6-9-1967	M/s. Metropole Industries, Pradhan-khunta, Distt. Dhanbad.	DDT Dusting Powders	IS: 564-1961
CM/L-1809 Dated 14-10-1968	Do.	Aldrin Dusting Powders	IS: 1308-1958
CM/L-1818 Dated 18-10-1968	Do.	BHC Emulsifiable Concentrates	IS: 632-1966

[No. CMD/55:1509.]

A. K. GUPTA,

Deputy Director General.